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Contents

Federal Register

Vol. 76, No. 31

Tuesday, February 15, 2011

Agriculture Department
See Animal and Plant Health Inspection Service
See Food Safety and Inspection Service
See Forest Service
See Rural Housing Service

Animal and Plant Health Inspection Service
RULES
Citrus Seed Imports:
Citrus Greening and Citrus Variegated Chlorosis, 8603–8605
NOTICES
Determination of Nonregulated Status for Corn Genetically Engineered to Facilitate Ethanol Production:
Syngenta Seeds, Inc., 8707–8708
Environmental Assessments; Availability, etc.:
Biological Control Agent for Arundo Donax, 8708
Environmental Impact Statements; Availability, etc.:
Proposed Cattle Fever Tick Control Barrier in South Texas, 8709–8710

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Information Comparison with Insurance Data, 8742–8743
National Survey of Early Care and Education, 8743

Coast Guard
RULES
Drawbridge Operation Regulations:
Gulf Intracoastal Waterway, New Orleans Harbor, Inner Harbor Navigation Canal, New Orleans, Orleans Parish, LA, 8653–8654
Harmonization with the International Maritime Solid Bulk Cargoes Code:
Bulk Solid Hazardous Materials, 8658–8659
Regulated Navigation Areas:
Hudson River South of the Troy Locks, NY, 8654–8656
Safety Zones:
Miami International Triathlon, Bayfront Park, Miami, FL, 8656–8658
Special Local Regulations:
Mavericks Surf Competition, Half Moon Bay, CA, 8651–8653
PROPOSED RULES
Drawbridge Operation Regulations:
Atlantic Intracoastal Waterway, Wrightsville Beach, Cape Fear and Northeast Cape Fear River, Wilmington, NC, 8663–8666
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8764–8765
Eastern Great Lakes Area Maritime Security Committee; Vacancies, 8765–8766

Commerce Department
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration

Commodity Futures Trading Commission
NOTICES
Meetings:
Technology Advisory Committee, 8715

Defense Department
See Navy Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8715–8716
Arms Sales Notification, 8716–8720
Proposed Solicitation for Cooperative Agreement Applications, 8720

Drug Enforcement Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Drug Questionnaire, 8775
Importer of Controlled Substances; Registrations:
Cerilliant Corp., Round Rock, TX, 8776–8777
Formulation Technologies LLC., Austin, TX, 8775–8776
Manufacturers of Controlled Substances; Registrations:
Cedarburg Pharmaceuticals, Inc., Grafton, WI, 8777–8778
GE Healthcare, Arlington Heights, IL, 8777
National Center for Natural Products Research-NIDA MProject, University of Mississippi, 8777

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8721–8722

Energy Department
See Federal Energy Regulatory Commission
See Western Area Power Administration

Environmental Protection Agency
PROPOSED RULES
Meetings:
Environmental Justice Considerations for Drinking Water Regulatory Efforts, 8674–8675
NOTICES
Draft National Pollutant Discharge Elimination System General Permits for Small Municipal Separate Storm Sewer Systems, 8734–8735
Review of the Secondary National Ambient Air Quality Standards for Oxides of Nitrogen and Sulfur; Availability, 8735–8736
Status of Motor Vehicle Budgets in Submitted State Implementation Plans:
Connecticut; Withdrawal of Adequacy of Motor Vehicle Emissions Budgets, 8736–8737

Executive Office of the President
See Science and Technology Policy Office

Federal Aviation Administration
RULES
Airworthiness Directives:
Airbus Model A340–200, –300, –500, and –600 Series Airplanes, 8610–8615

Boeing Co. Model 767 Airplanes, 8615–8618
Bombardier, Inc. Model CL 600 2B19 (Regional Jet Series 100 and 440) Airplanes, 8605–8607
Cessna Aircraft Co. Model 750 Airplanes, 8607–8609
Fokker Services B.V. Model F.28 Mark 0070 and 0100 Airplanes, 8618–8620, 8622–8624
Pratt and Whitney JT8D–209, –217, –217A, –217C, and –219 Turbofan Engines, 8620–8622
Reciprocal Waivers of Claims for Multiple-Customer Commercial Space Launch and Reentry, 8629–8637
Revisions of Class E Airspace:
Barrow, AK, 8624–8625
Platinum, AK, 8627–8628
Savoonga, AK, 8625–8626
Shungnak, AK, 8626–8627
Safe, Efficient Use and Preservation of the Navigable Airspace, 8628–8629
PROPOSED RULES
Airworthiness Directives:
Lycoming Engines, Fuel Injected Reciprocating Engines, 8661–8663

Federal Communications Commission
RULES
Structure and Practices of the Video Relay Service Program, 8659–8660
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8737

Federal Deposit Insurance Corporation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8737–8738
Meetings:
Advisory Committee on Economic Inclusion, 8738–8739

Federal Energy Regulatory Commission
NOTICES
Applications:
California Department of Water Resources, 8722–8723
First Light Hydro Generating Co., 8724–8725
Minnesota Energy Resources Corp., 8723–8724
Baseline Filings:
Enstor Grama Ridge Storage and Transportation, L.L.C.; EasTrans, LLC; DCP Guadalupe Pipeline, LLC, et al., 8725
Compliance Filings:
DCP Guadalupe Pipeline, LLC, 8725
Filings:
EasTrans, LLC, 8726
Western Area Power Administration, 8726
License Applications:
Edgartown, MA, 8726–8727
Meetings; Sunshine Act, 8727–8728
Permit Applications:
Bear Creek Hydro Associates, LLC, 8728–8729
Bison Peak Pumped Storage, LLC, 8729–8730

Federal Highway Administration
NOTICES
Environmental Impact Statements; Availability, etc.:
Clark County, IN; Jefferson County, KY, 8808–8809

Federal Motor Carrier Safety Administration
NOTICES
Qualifications of Drivers; Exemption Applications; Vision, 8809–8810

Federal Railroad Administration
PROPOSED RULES
Locomotive Safety Standards:
Correction, 8699
NOTICES
Petitions for Waivers of Compliance:
San Diego Trolley Inc., 8810–8811

Federal Reserve System
NOTICES
Acquisitions of Shares of a Bank or Bank Holding Company, 8739

Federal Trade Commission
NOTICES
Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules, 8739–8741

Federal Transit Administration
NOTICES
FTA Fiscal Year 2011 Apportionments, Allocations and Program Information:
Corrections, 8811–8843

Food and Drug Administration
RULES
Medical Devices; Medical Device Data Systems, 8637–8649

Food Safety and Inspection Service
NOTICES
Meetings:
Codex Alimentarius Commission Committee on Contaminants in Food, 8710–8711

Forest Service
NOTICES
Meetings:
Idaho Panhandle Resource Advisory Committee, 8711–8712

Health and Human Services Department
See Children and Families Administration
See Food and Drug Administration
See Indian Health Service
See National Institutes of Health
NOTICES
Draft National Toxicology Program Technical Reports; Availability, etc., 8741–8742

Homeland Security Department
See Coast Guard
See U.S. Customs and Border Protection
NOTICES
Final Information Quality Guidelines Policy, 8753–8754
Meetings:
DHS Data Privacy and Integrity Advisory Committee, 8754–8755
Privacy Act; Systems of Records, 8755–8764

Housing and Urban Development Department
PROPOSED RULES
Manufactured Housing; Correction, 8852–8870

Indian Health Service
NOTICES
Indian Health Professions Student Programs, 8743–8748
Repayment Program for Health Professions Educational Loans, 8748–8750

Interior Department
See National Park Service
NOTICES
Establishment of the Wildland Fire Executive Council, 8768

Internal Revenue Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8845

International Trade Commission
NOTICES
Complaints:
Certain Display Devices, Including Digital Televisions and Monitors, 8769
Five-Year Reviews of Antidumping Orders:
Glycine from China, 8771–8772
Polyethylene Terephthalate Film from Korea, 8770–8771
Full Five-Year Reviews on Antidumping and Countervailing Duty Orders:
Cut-to-Length Carbon Steel Plate from India, Indonesia, Italy, and Korea, 8772
Meetings; Sunshine Act, 8772–8773
Terminations of Five-Year Reviews:
Forged Stainless Steel Flanges from India and Taiwan, 8773–8774
Granular Polytetrafluoroethylene Resin from Japan, 8774
Sparklers from China, 8773
Superalloy Degassed Chromium from Japan, 8773

Justice Department
See Drug Enforcement Administration
See Justice Programs Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8774–8775

Justice Programs Office
NOTICES
Meetings:
National Motor Vehicle Title Information System Federal Advisory Committee, 8778

Labor Department
See Occupational Safety and Health Administration

National Aeronautics and Space Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8784–8785

National Institute of Standards and Technology
NOTICES
Meetings:
Advisory Committee on Earthquake Hazards Reduction, 8712–8713

National Institutes of Health
NOTICES
Meetings:
Center for Scientific Review, 8751, 8753
National Heart, Lung, and Blood Institute, 8752
National Institute of Allergy and Infectious Diseases, 8753
National Institute of Diabetes and Digestive and Kidney Diseases, 8752–8753
National Institute of Environmental Health Sciences, 8751–8752

National Labor Relations Board
NOTICES
Meetings; Sunshine Act, 8785

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fisheries of the Exclusive Economic Zone Off Alaska:
Bering Sea and Aleutian Islands Crab Rationalization Program, 8700–8706
NOTICES
Meetings:
Pacific Fishery Management Council, 8713
Permit Applications:
Endangered and Threatened Species; Take of Anadromous Fish, 8713–8715

National Park Service
NOTICES
Meetings:
Cape Cod National Seashore Advisory Commission, 8768–8769

Navy Department
NOTICES
Record of Decision:
Disposal and Reuse of Naval Air Station Brunswick; ME, 8720–8721

Nuclear Regulatory Commission
NOTICES
License Amendment Requests:
Decommissioning of the ABB Inc., Combustion Engineering, Windsor, CT Site, 8785–8787
Meetings; Sunshine Act, 8788

Occupational Safety and Health Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Construction Standards on Posting Emergency Telephone Numbers and Floor Load Limits, 8778–8779
Standard on the Control of Hazardous Energy (Lockout/Tagout), 8780–8782
Underground Construction Standard, 8782–8784

Pension Benefit Guaranty Corporation
RULES
Benefits Payable in Terminated Single-Employer Plans:
Interest Assumptions for Paying Benefits, 8649–8651

Rural Housing Service
NOTICES
Meetings:
Section 538 Guaranteed Rural Rental Housing Program 2011 Industry Forums, 8712

Science and Technology Policy Office
NOTICES
Meetings:
National Nanotechnology Coordination Office; Bridging NanoEHS Research Efforts, 8788

Securities and Exchange Commission
NOTICES
Applications:
Riverside Casualty, Inc., 8788–8791
Meetings; Sunshine Act, 8791
Self-Regulatory Organizations; Proposed Rule Changes:
Chicago Board Options Exchange, Inc., 8794–8796

International Securities Exchange, LLC, 8796–8798
NASDAQ OMX PHLX LLC, 8793–8794, 8798–8799
NASDAQ Stock Market LLC, 8791–8793
NYSE Arca, Inc., 8799–8801

Small Business Administration
NOTICES
Disaster Declarations:
Arizona, 8801–8802
New Jersey, 8802
Surrender of Licenses of Small Business Investment Companies, 8802

Social Security Administration
NOTICES
Meetings:
Accessibility Committee of the Federal CIO Council; Improving the Accessibility of Government Information, 8802–8804

State Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Exchange Visitor Program Annual Report, 8804

Surface Transportation Board
PROPOSED RULES
Reporting Requirements for Positive Train Control Expenses and Investments, 8699–8700

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Motor Carrier Safety Administration
See Federal Railroad Administration
See Federal Transit Administration
See Surface Transportation Board
PROPOSED RULES
Prioritization and Allocation Authority Exercised By the Secretary of Transportation Under the Defense Production Act, 8675–8699
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8804–8808

Treasury Department
See Internal Revenue Service
NOTICES
Privacy Act; Systems of Records, 8843–8845

U.S. Customs and Border Protection
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Andean Trade Preference Act, 8766–8767
e-Allegations Submission, 8767–8768

Veterans Affairs Department
PROPOSED RULES
Substitution In Case of Death of Claimant, 8666–8674
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Disability Benefits Questionnaires – Group 1, 8846–8847
Financial Statement, 8848
Lenders Staff Appraisal Reviewer Application, 8847–8848
Recordkeeping at Flight Schools, 8845–8846
VBA Loan Guaranty Service Lender Satisfaction Survey, 8846
Disciplinary Appeals Board Panel, 8848–8849

Western Area Power Administration
NOTICES
Proposed Rates:
Desert Southwest Customer Service Region, 8730–8734

Separate Parts In This Issue

Part II
Housing and Urban Development Department, 8852–8870

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
319.....8603

14 CFR
39 (8 documents) ...8605, 8607, 8610, 8612, 8615, 8618, 8620, 8622
71 (4 documents) ...8624, 8625, 8626, 8627
77.....8628
440.....8629

Proposed Rules:
39.....8661

21 CFR
880.....8637

24 CFR

Proposed Rules:
3282.....8852

29 CFR
4022.....8649

33 CFR
100.....8651
117.....8653
165 (2 documents) 8654, 8656

Proposed Rules:
117.....8663

38 CFR

Proposed Rules:
3.....8666
14.....8666
20.....8666

40 CFR

Proposed Rules:
1.....8674

46 CFR
148.....8658

47 CFR
64.....8659

49 CFR

Proposed Rules:
33.....8675
229.....8699
238.....8699
1201.....8699

50 CFR

Proposed Rules:
680.....8700

Rules and Regulations

Federal Register
Vol. 76, No. 31
Tuesday, February 15, 2011

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 AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2008–0052]

RIN 0579–AD07

Citrus Seed Imports; Citrus Greening and Citrus Variegated Chlorosis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the regulations governing the importation of nursery stock to prohibit the importation of propagative seed of several Rutaceae (citrus family) genera from certain countries where citrus greening or citrus variegated chlorosis (CVC) is present. The interim rule also required propagative seed of these genera from all other countries to be accompanied by a phytosanitary certificate with an additional declaration that neither citrus greening nor CVC are known to occur in the country where the seed was produced. We took that action because scientific evidence indicated that seed of certain genera of the family Rutaceae may be a pathway for the introduction of those diseases. The interim rule was necessary in order to prevent the introduction or dissemination of citrus greening or CVC within the United States.

DATES: Effective on February 15, 2011, we are adopting as a final rule the interim rule published at 75 FR 17289–17295 on April 6, 2010.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Tschanz, Senior Plant Pathologist, Plant Health Programs, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 734–0627.

SUPPLEMENTARY INFORMATION:

Background

Citrus greening (known internationally as Huanglongbing disease of citrus and referred to below as HLB) is considered to be one of the most serious citrus diseases in the world. HLB is a bacterial disease caused by strains of the bacterial pathogens "*Candidatus* Liberibacter asiaticus", "*Candidatus* Liberibacter africanus", and "*Candidatus* Liberibacter americanus" that attack the vascular system of host plants. The pathogens are phloem-limited, inhabiting the food-conducting tissue of the host plant, and causes yellow shoots, blotchy mottling and chlorosis, reduced foliage, and tip dieback of citrus plants. HLB greatly reduces production, destroys the economic value of the fruit, and can kill trees. Once a tree is infected, there is no cure for HLB. In areas of the world where the disease is endemic, citrus trees decline and die within a few years and may never produce usable fruit. HLB was first detected in the United States in Miami-Dade County, FL, in 2005, and is only known to be present in the United States in the States of Florida and Georgia, Puerto Rico, two parishes in Louisiana, and two counties in South Carolina.

CVC is also a highly injurious disease of citrus. Caused by a strain of the bacterium *Xylella fastidiosa,* CVC causes severe chlorosis between veins on the leaves of affected plants. Leaves on affected plants frequently have discoloration of the upper leaf coupled with brown lesions underneath. CVC may reduce plant growth and lead to abnormal flowering and fruit production. CVC is currently not known to occur in the United States.

The regulations in 7 CFR part 319, "Foreign Quarantine Notices," prohibit or restrict the importation of certain plants and plant products to prevent the introduction or dissemination of plant pests and noxious weeds into the United States. The regulations in "Subpart-Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products," §§ 319.37 through 319.37–14 (referred to below as the regulations), restrict, among other things, the importation of seeds for propagation.

In an interim rule [1] effective and published in the **Federal Register** on April 6, 2010 (75 FR 17289–17295, Docket No. APHIS–2008–0052), we amended the regulations to prohibit the importation of propagative seed of several Rutaceae (citrus family) genera from certain countries where HLB or CVC is present, and to require propagative seed of these genera from all other countries to be accompanied by a phytosanitary certificate with an additional declaration that neither HLB nor CVC is known to occur in the country where the seed was produced.

Comments on the interim rule were required to be received on or before June 7, 2010. We received three comments by that date, from a citrus nursery, a company engaged in the commercial production, packing, and shipping of citrus products, and a State department of agriculture. The comments are addressed below, by topic.

General Comments on the Interim Rule

One commenter stated that countries in which HLB or CVC is present would respond to the prohibitions of the interim rule by in turn prohibiting the importation of citrus articles from the United States. Because the loss of foreign markets would adversely impact the U.S. citrus industry, the commenter stated that the rule should be withdrawn.

On September 19, 2005, the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) reported the first two confirmed detections of HLB within the United States to the International Plant Protection Convention. Since that time, it has been at the discretion of foreign countries to promulgate regulations prohibiting or restricting the importation of host articles of HLB from the United States, based on an assessment of the potential risk to plants, plant parts, and plant products within those countries that could be associated with the introduction or dissemination of the disease. We note, however, that countries that are members of the World Trade Organization have committed

[1] To view the interim rule, its supporting and related materials, and the comments we received, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0052.*

themselves to basing prohibitions or restrictions on the importation of articles (such as, in this case, citrus from the United States) on scientific evidence and risk assessment.

Comments Regarding Transmission of HLB Through Propagative Seed

In the interim rule, our stated rationale for imposing prohibitions on the importation of seed of genera that are hosts of HLB was that emerging evidence suggested that such seed could transmit the disease. To that end, we cited a peer-reviewed article by Susan Halbert and Keremane Manjunath that detailed that, when seedlings are generated from seed that is infected with HLB, a small percentage of those seedlings have been found to be infected with HLB.[2]

All three commenters stated that the Halbert and Manjunath article did not provide an adequate scientific basis for considering seed to be a pathway for the transmission of HLB. Two of the commenters pointed out that Halbert and Manjunath did not conduct original research regarding seed transmission, but instead referenced a 1981 study. The same commenters also pointed out that researchers in the 1981 study collected only a small number of seeds, and did not test the seedlings derived from this seed for the disease, but rather determined them to have the same stunted, chlorotic appearance as infected plants. Both commenters concluded by citing Halbert and Manjunath's assessment that the 1981 experiment "bears repeating" as evidence that Halbert and Manjunath themselves had concerns about the study's findings. Finally, one commenter cited two more recent studies, published in 2009, that the commenter asserted conclude that HLB is not seed-borne. All three commenters stated that we should amend the interim rule to allow the importation of propagative seed from countries where only HLB is present.

We disagree with the commenters' interpretation of Halbert and Manjunath's assessment of the 1981 experiment; stating that an experiment bears repeating is not tantamount to stating that one has concerns with its findings, and is, in fact, consistent with the basic elements of the scientific method.

Moreover, the Halbert and Manjunath article was not our sole basis for taking regulatory action; we referenced it in order to illustrate some of the information that factored into our determination. We considered other evidence. For example, as we mentioned in an interim rule that established domestic quarantine regulations for HLB and that was published in the **Federal Register** and effective on June 17, 2010 (75 FR 34322–34336, Docket No. APHIS–2008–0015), researchers at USDA's Agricultural Research Service (ARS) and APHIS' Center for Plant Health Science and Technology (CPHST) have recently undertaken extensive studies to determine the likelihood of seed transmission of HLB. Both the ARS and CPHST studies found that a percentage of seedlings from infected seed tested positive for HLB via polymerase chain reaction (PCR) analysis; in the ARS study, the infection rate varied, but was as great as 78.5 percent in certain instances.[3] ARS researchers did note, however, that the bacterium causing HLB remained at a very low titer in affected plants, and that most infected seedlings remained largely or entirely asymptomatic several years after testing positive for the disease.

One of the 2009 articles[4] referenced by the commenter does not contradict, and in fact is generally consistent with, the findings of the ARS study. The article details a 2007 study, conducted by Ute Albrecht and Kim Bowman, in which more than 15,000 seeds were obtained from symptomatic trees of the following species: *Citrus macrophylla* Webster, *Citrus vangasay* bojer, X *Poncirus trifoliata, Citrus reticulata* Blanco, *Citrus aurantium* L., and *Citrus sinensis.* Of the seedlings grown from these seeds, 769 were tested for HLB via PCR analysis at time periods ranging from 7 weeks to 9 months after sowing. Five of these 769 seedlings tested positive for the disease. However, titer levels of the bacterium were low, and the plants remained asymptomatic. In addition, repeated retesting of the positive plants several months after the initial test yielded negative PCR results.

The other article[5] referenced by the commenter details an experiment that Hajivand Shokrollah conducted in order to determine the transmissibility of HLB through seed obtained from infected *Citrus reticulata* plants. As part of the experiment, Shokrollah tested 20 seedlings grown from such seed by using PCR analysis. While each seedling tested negative for HLB, we do not consider 20 plants, all of the same species, to be a large enough or varied enough sample size to yield conclusive results regarding disease transmission.

We acknowledge that all the studies referenced above suggest that the transmission of HLB via propagative seed is fundamentally different than its transmission via other vectors, such as budwood or Asian citrus psyllid: The bacterium is present in infected seedlings at low concentration levels, plants remain largely asymptomatic, and plants may test negative for the disease after initially testing positive. However, it is well-documented that the bacterium associated with HLB may be unevenly distributed throughout an infected plant, that the latency period for expression of symptoms may be pronounced, and that the manner in which those symptoms are expressed is influenced by a multitude of factors. Accordingly, because of the severity of HLB, in order for us to deregulate propagative seed as a host of the disease, we would need clear evidence that the disease cannot be transmitted via propagative seed or that infected seedlings cannot serve as vectors of the disease. Such evidence does not currently exist. Hence we are making no change to the interim rule in response to these comments.

One commenter stated that hot water dips are effective in treating seed for HLB. However, the commenter failed to provide any evidence in support of this assertion.

Comments Regarding CVC Transmission Through Propagative Seed

In the preamble of the interim rule, our stated rationale for imposing prohibitions on the importation of seed of genera that are hosts of CVC was that there was also emerging evidence that propagative seed could transmit this disease. To that end, we cited a 2003 study[6] by W.B. Li *et al.* (referred to below as Li *et al.*).

One commenter pointed out that Li *et al.* was conducted only on three

[2] Halbert, Susan and Keremane L. Manjunath. Asian Citrus Psyllids (*Sternorrhyncha: Psyllidae*) and Greening Disease of Citrus: A Literature Review and Assessment of Risk in Florida. Found at *http://www.bioone.org/doi/pdf/10.1653/0015-4040(2004)087[0330:ACPSPA]2.0.CO;2.*

[3] Benyon, L.S., *et al. Transmission of 'Candidatus Liberibacter asiaticus' from seeds to seedlings in citrus along with a low bacterial tier and atypical HLB symptoms.* Available by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT**.

[4] Albrect, Ute and Kim D. Bowman. 2009. *Canidatus Liberibacter asiaticus and Huanglongbing Effects on Citrus Seeds and Seedlings.* HortScience 44: 1967–1973. Available at *http://ddr.nal.usda.gov/bitstream/10113/38868/1/IND44303043.pdf.*

[5] Shokrollah, Hajivand, *et al. Determination of the Presence of Huanglongbing in Seeds and Movement of the Pathogen in Citrus reticulata.* American Journal of Applied Sciences 6: 60: 1180–1185. Available at *http://www.allbusiness.com/medicine-health/disease-agents-vectors/13080162-1.html.*

[6] Li, W.B., W.D. Pria, Jr., P.M. Lacava, et al. Presence of *Xylella fastidiosa* in Sweet Orange Fruit and Seeds and Its Transmission to Seedlings. *Phytopathology* (Vol. 93, No. 8) 2003, 953–958.

subspecies of sweet oranges, did not evaluate disease transmission from seeds taken from asymptomatic fruit, and was aborted before conclusive findings could be drawn. The commenter therefore asserted that seed should not be regulated as a host of CVC until further research is conducted.

The commenter is right in pointing out that Li *et al.* was aborted abruptly, because of a hurricane, and that only a study on three subspecies of sweet oranges was concluded by that time. However, CVC seed infection rates were greater than 22 percent for one subspecies evaluated in that study, and the transmission from seeds to seedlings was determined to be "efficient." Moreover, research had begun on several other species, and was tending towards the results of the sweet orange study. Finally, we note that no studies have been conducted since 2003 that call into question the findings of Li *et al.* For these reasons, we have determined that Li *et al.*'s conclusion, that the study "demonstrated that [CVC] can be transmitted through seed to seedlings," is correct, and constitutes a sufficient basis for the prohibitions in the interim rule.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule, without change.

This action also affirms the information contained in the interim rule concerning Executive Order 12988 and the Paperwork Reduction Act.

Further, this action has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

This rule affirms an interim rule that amended the regulations governing the importation of nursery stock to prohibit the importation of propagative seed of several Rutaceae (citrus family) genera from certain countries where citrus greening or citrus variegated chlorosis (CVC) is present. The interim rule also required propagative seed of these genera from all other countries to be accompanied by a phytosanitary certificate with an additional declaration that neither citrus greening nor CVC are known to occur in the country where the seed was produced. The action was necessary in order to prevent the introduction or dissemination of citrus greening or CVC within the United States.

We have prepared a final regulatory flexibility analysis addressing the economic effects of the interim rule on small entities, as required by the Regulatory Flexibility Act. The analysis identifies importers of citrus seed as entities potentially affected by the interim rule. The full analysis may be viewed on the Regulations.gov Web site (*see* **ADDRESSES** above for instructions for accessing Regulations.gov) or obtained from the person listed under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

PART 319—FOREIGN QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 319 and that was published at 75 FR 17289–17295 on April 6, 2010.

Done in Washington, DC, this 9th day of February 2011.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2011–3367 Filed 2–14–11; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–1113; Directorate Identifier 2010–NM–121–AD; Amendment 39–16603; AD 2011–04–03]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 and 440) Airplanes

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

ACTION: Final rule.

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

During flight-testing of a wing anti-ice piccolo tube containing a deliberate small breach, it was determined that the wing leading edge thermal switches Part Number (P/N) 601R59320–1 were not detecting the consequent bleed leak at the design threshold. As a result, Airworthiness Limitation (AWL) tasks, consisting of a functional check of the wing leading edge thermal switches (P/N 601R59320–1) and an inspection of the wing anti-ice duct piccolo tubes on aeroplanes with these switches installed, have been introduced. These tasks will limit exposure to dormant failure of the wing leading edge thermal switches in the event of piccolo tube failure, which could potentially compromise the structural integrity of the wing leading edge and the effectiveness of the wing anti-ice system.

* * * * *

The unsafe condition is loss of control of the airplane. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective March 22, 2011.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 22, 2011.

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

FOR FURTHER INFORMATION CONTACT: Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7318; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on November 15, 2010 (75 FR 69609). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

During flight-testing of a wing anti-ice piccolo tube containing a deliberate small breach, it was determined that the wing leading edge thermal switches Part Number (P/N) 601R59320–1 were not detecting the consequent bleed leak at the design threshold. As a result, Airworthiness Limitation (AWL) tasks, consisting of a functional check of the wing leading edge thermal switches (P/N 601R59320–1) and an inspection of the wing anti-ice duct piccolo tubes on aeroplanes with these switches installed, have been introduced. These tasks will limit exposure to dormant failure of the wing leading edge thermal switches in the event of piccolo tube failure, which could potentially compromise the structural integrity of the wing leading edge and the effectiveness of the wing anti-ice system.

This directive mandates revision of the approved maintenance schedule to include the above referenced tasks, including phase-in schedules that supersede the phase-in schedules specified in the AWL tasks.

Note: Thermal switches, P/N 601R59320–1, were installed in production on aircraft Serial Numbers (S/N) 7213 and subsequent. Service Bulletin 601R–30–022 covered in-service installation of these switches on aircraft S/Ns 7003 through 7212.

The unsafe condition is loss of control of the airplane. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 628 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $53,380, or $85 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2011–04–03 Bombardier, Inc.: Amendment 39–16603. Docket No. FAA–2010–1113; Directorate Identifier 2010–NM–121–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 22, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 and 440) airplanes; certificated in any category; serial numbers 7003 and subsequent.

Subject

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

Reason

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

During flight-testing of a wing anti-ice piccolo tube containing a deliberate small breach, it was determined that the wing leading edge thermal switches Part Number (P/N) 601R59320–1 were not detecting the consequent bleed leak at the design threshold. As a result, Airworthiness Limitation (AWL) tasks, consisting of a functional check of the wing leading edge thermal switches (P/N 601R59320–1) and an inspection of the wing anti-ice duct piccolo tubes on aeroplanes with these switches installed, have been introduced. These tasks will limit exposure to dormant failure of the wing leading edge thermal switches in the event of piccolo tube failure, which could potentially compromise the structural integrity of the wing leading edge and the effectiveness of the wing anti-ice system.

* * * * *

The unsafe condition is loss of control of the airplane.

Compliance

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

Actions

(g) Within 30 days after the effective date of this AD, revise the Airworthiness Limitations section (ALS) of the maintenance program by incorporating Task C36–20–133–03 specified in Bombardier Temporary Revision (TR) 2A–50, dated November 17, 2009; and Task C30–10–133–01 specified in Bombardier TR 2A–49, dated November 17, 2009; into Appendix A, "Certification Maintenance Requirements," of Part 2 of the

Bombardier CL–600–2B19 Maintenance Requirements Manual (MRM). For these tasks, the initial compliance time starts at the applicable time specified in paragraphs (g)(1) and (g)(2) of this AD. Thereafter, except as provided by paragraph (h) of this AD, no alternative functional check of the thermal switch or detailed visual inspection of the piccolo tube may be approved.

Note 1: The actions required by paragraph (g) of this AD may be done by inserting a copy of Bombardier TR 2A–49 and TR 2A–50, both dated November 17, 2009, into the Appendix A of Part 2 of the Bombardier CL–600–2B19 MRM. When these TRs have been included in Appendix A of Part 2 of the general revisions of the MRM, the general revisions may be inserted in the MRM, provided that the relevant information in the general revision is identical to that in Bombardier TR 2A–49 and TR 2A–50, both dated November 17, 2009.

(1) For Task C36–20–133–03, the initial compliance time is before the accumulation of 15,000 total flight hours or within 7 months after the effective date of this AD, whichever occurs later.

(2) For Task C30–10–133–01, the initial compliance time is before the accumulation of 15,000 total flight hours on the piccolo tube or within 7 months after the effective date of this AD, whichever occurs later.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

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

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

(3) *Reporting Requirements:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave., SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

Related Information

(i) Refer to MCAI Canadian Airworthiness Directive CF–2010–12, dated May 26, 2010; and Bombardier TR 2A–49, dated November 17, 2009, and Bombardier TR 2A–50, dated November 17, 2009, to Appendix A, "Certification Maintenance Requirements," of Part 2 of the Bombardier CL–600–2B19 MRM; for related information.

Material Incorporated by Reference

(j) You must use Bombardier Temporary Revision 2A–49, dated November 17, 2009; and Bombardier Temporary Revision 2A–50, dated November 17, 2009; to Appendix A, "Certification Maintenance Requirements," of Part 2 of the Bombardier CL–600–2B19 Maintenance Requirements Manual; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

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

Issued in Renton, Washington, on February 3, 2011.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–3041 Filed 2–14–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–1107; Directorate Identifier 2009–NM–263–AD; Amendment 39–16600; AD 2011–03–16]

RIN 2120–AA64

Airworthiness Directives; The Cessna Aircraft Company Model 750 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD requires an inspection to determine the serial numbers of the auxiliary power unit (APU) generator and the left and right engine direct current (DC) generators, and corrective actions if necessary. This AD also requires revising the airplane flight manual. This AD was prompted by a report of a DC generator overvoltage event which caused smoke in the cockpit and damage to numerous avionics and electrical components. We are issuing this AD to detect and correct an overvoltage condition on the DC electrical busses caused by exciter stator winding failures, and subsequent failure of the generator control unit (GCU) overvoltage protection circuitry, which could result in damage to critical electrical and avionics components.

DATES: This AD is effective March 22, 2011.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of March 22, 2011.

ADDRESSES: For service information identified in this AD, contact Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277; telephone 316–517–6215; fax 316–517–5802; e-mail *citationpubs@cessna.textron.com;* Internet *https://www.cessnasupport.com/newlogin.html.* 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 AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Raymond Johnston, Aerospace Engineer, Electrical Systems and Avionics, ACE–119W, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; phone: 316–946–4197; fax: 316–946–4107; e-mail: *Raymond.Johnston@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to the specified products. That NPRM published in the **Federal Register** on November 9, 2010 (75 FR 68731). That NPRM proposed to require an inspection to determine the serial numbers of the auxiliary power unit (APU) generator and the left and right engine direct current (DC) generators, and related corrective actions if necessary. That NPRM also proposed to require revising the airplane flight manual.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal and the FAA's response to each comment.

Request To Verify Applicability

The European Aviation Safety Agency (EASA) requested clarification regarding the applicability of the NPRM. The EASA noted that the applicability in paragraph (c) of the NPRM applies to Cessna Model 750 airplanes having serial numbers –0222 and –0225 and subsequent. The EASA noted that paragraph (i) of the NPRM states that no person may install any Pacific Scientific generators having part number 92841–1 (9914752–1) that has serial numbers 060 through 297 without suffix "C" on any airplane. The EASA asked if there is a chance that the affected generators could be installed on other Model 750 airplanes with serial numbers that are not identified in paragraph (c) of the NPRM.

We agree to clarify. Cessna Model 750 airplanes having lower serial numbers use only Goodrich generators, which are not affected by the identified unsafe condition. We have not changed the final rule in regard to this issue.

Request To Change Paragraph Identifier in Note 1 of the NPRM

Cessna requested that we change the paragraph identifier in Note 1 of the NPRM to specify paragraph (h), not paragraph (g) of the NPRM, because paragraph (h) of the NPRM contained the AFM revisions.

We agree. We revised this AD as requested.

Request To Remove the Compliance Time

Cessna requested that we remove the compliance time of "before further flight" from the Relevant Service Information section and paragraph (g) of the NPRM. Cessna did not provide a reason for its request.

We partially agree. We agree that the information in the Relevant Service Information and the Cessna service letter should match; however, the Relevant Service Information section is not contained in the final rule. We do not agree with the request to change the compliance time in paragraph (g) of the final rule. By the time this AD is issued, there will not be an issue with parts availability and if an affected generator is found to be installed, it should be replaced immediately. However, operators may request approval of an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD. We have not changed the final rule in regard to this issue.

Conclusion

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

Costs of Compliance

We estimate that this AD affects 67 airplanes of U.S. registry. We also estimate that it takes up to 10 work-hours per product to comply with this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be up to $56,950, or $850 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

(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.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2011–03–16 The Cessna Aircraft Company: Amendment 39–16600; Docket No. FAA–2010–1107; Directorate Identifier 2009–NM–263–AD.

Effective Date

(a) This AD is effective March 22, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to The Cessna Aircraft Company Model 750 airplanes, certificated in any category, having serial numbers –0222, and –0225 and subsequent.

Subject

(d) Air Transport Association (ATA) of America Code 24: Electrical power.

Unsafe Condition

(e) This AD results from a report of a direct current (DC) generator overvoltage event which caused smoke in the cockpit and damage to numerous avionics and electrical components. The Federal Aviation Administration is issuing this AD to detect and correct an overvoltage condition on the DC electrical busses caused by exciter stator winding failures, and subsequent failure of the generator control unit overvoltage protection circuitry, which could result in damage to critical electrical and avionics components.

Compliance

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

Inspection

(g) For airplanes having serial numbers –0222, –0225 through –0293 inclusive, –0295, –0296, and –0298: Within 6 months or 600 flight hours after the effective date of this AD, whichever occurs later, inspect to determine the serial number of the auxiliary power unit (APU) generator and the left and right engine 400 amp DC generators, in accordance with the Accomplishment Instructions of Cessna Service Letter SL750–24–08, dated August 13, 2009. For airplanes that have one or more generators having a serial number 060 through 297 inclusive without suffix "C," before further flight, replace the affected generator(s) with a new or serviceable generator, in accordance with the Accomplishment Instructions of Cessna Service Letter SL750–24–08, dated August 13, 2009.

Revision of the Airplane Flight Manual (AFM)

(h) For airplanes having serial numbers –0222, and –0225 and subsequent: Within 30 days after the effective date of this AD, revise Section II, Operating Limitations, Generator Limitations, page 2–12, of the applicable airplane flight manual (AFM) to include the information in the applicable Cessna temporary change (TC) required by paragraph (h)(1), (h)(2), or (h)(3) of this AD. These TCs introduce procedures for resetting the APU generator. Operate the airplane according to the limitations and procedures in the TCs.

(1) For Model 750 Citation X airplanes (750–0173 and on and airplanes incorporating Cessna Service Bulletin SB750–71–10): Insert Cessna TC 75FMA TC–R01–46, dated April 23, 2009.

(2) For Model 750 Citation X airplanes (750–0173 and on and airplanes incorporating Cessna Service Bulletin SB750–71–10): Insert Cessna TC 75EUA TC–R01–35, dated May 8, 2009.

(3) For Model 750 Citation X airplanes (750–0173 and on and airplanes incorporating Cessna Service Bulletin SB750–71–10): Insert Cessna TC 75EUMA TC–R01–35, dated May 8, 2009.

Note 1: The AFM revisions required by paragraph (h) of this AD may be done by inserting copies of Cessna TCs 75FMA TC–R01–46, dated April 23, 2009; 75EUA TC–R01–35, dated May 8, 2009; or 75EUMA TC–R01–35, dated May 8, 2009; into the applicable AFM. When these TCs have been included in general revisions of the applicable AFM, the general revisions may be inserted into the applicable AFM, provided the relevant information in the general revision is identical to that in the applicable TC.

Parts Installation

(i) As of the effective date of this AD, no person may install any Pacific Scientific generator having part number 92841–1 (9914752–1) that has serial numbers 060 through 297 without the suffix "C" on any airplane.

Alternative Methods of Compliance (AMOCs)

(j)(1) The Manager, Wichita Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Raymond Johnston, Aerospace Engineer, Electrical Systems and Avionics, ACE–119W, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4197; fax (316) 946–4107.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

Related Information

(k) For more information about this AD, contact Raymond Johnston, Aerospace Engineer, Electrical Systems and Avionics, ACE–119W, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; phone: 316–946–4197; fax: 316–946–4107; e-mail: *Raymond.Johnston@faa.gov.*

Material Incorporated by Reference

(l) You must use the service information specified in table 1 of this AD to do the actions required by this AD, unless the AD specifies otherwise.

TABLE 1—ALL MATERIAL INCORPORATED BY REFERENCE

Document	Date
Cessna Temporary Change (TC) 75FMA TC–R01–46 to the Section II, Operating Limitations, Generator Limitations, page 2–12.	April 23, 2009.
Cessna TC 75EUA TC–R01–35 to the Section II, Operating Limitations, Generator Limitations, page 2–12	May 8, 2009.
Cessna TC 75EUMA TC-R01–35 to the Section II, Operating Limitations, Generator Limitations, page 2–12	May 8, 2009.
Cessna Service Letter SL750–24–08	August 13, 2009.

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

(2) For service information identified in this AD, contact Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277; telephone 316–517–6215; fax 316–517–5802; e-mail *citationpubs@cessna.textron.com;* Internet *https://www.cessnasupport.com/newlogin.html.*

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

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

Issued in Renton, Washington, on January 28, 2011.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–2516 Filed 2–14–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0040; Directorate Identifier 2010–NM–185–AD; Amendment 39–16606; AD 2011–04–06]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A340–200, –300, –500, and –600 Series Airplanes

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

ACTION: Final rule; request for comments.

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

* * * * *

The airworthiness limitations applicable to Damage Tolerant Airworthiness Limitation Items (DT ALI) are currently given in Airbus A340 ALI Document reference AI/SE–M4/95A.0051/97, which is approved by the European Aviation Safety Agency (EASA) and referenced in Airbus Airworthiness Limitations Section (ALS) Part 2.

The issue 11 of Airbus A340 ALI Document introduces more restrictive maintenance requirements/airworthiness limitations. Failure to comply with this issue 11 constitutes an unsafe condition.

This new [EASA] AD retains the requirements of EASA AD 2007–0158, which is superseded, and requires the implementation of the more restrictive maintenance requirements/airworthiness limitations as specified in Airbus A340 ALI Document AI/SE–M4/95A.0051/97 issue 11.

The unsafe condition is fatigue cracking, damage, and corrosion in certain structure, which could result in reduced structural integrity of the airplane. This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective March 2, 2011.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of March 2, 2011.

We must receive comments on this AD by April 1, 2011.

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

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

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the aviation authority for the Member States of the European Community, has issued EASA Airworthiness Directive 2010–0036, dated March 8, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

The airworthiness limitations are currently included in Airbus A340 Airworthiness Limitations Section (ALS).

The airworthiness limitations applicable to Damage Tolerant Airworthiness Limitation Items (DT ALI) are currently given in Airbus A340 ALI Document reference AI/SE–M4/95A.0051/97, which is approved by the European Aviation Safety Agency (EASA) and referenced in Airbus Airworthiness Limitations Section (ALS) Part 2.

The issue 11 of Airbus A340 ALI Document introduces more restrictive maintenance requirements/airworthiness limitations. Failure to comply with this issue 11 constitutes an unsafe condition.

This new [EASA] AD retains the requirements of EASA AD 2007–0158, which is superseded, and requires the implementation of the more restrictive maintenance requirements/airworthiness limitations as specified in Airbus A340 ALI Document AI/SE–M4/95A.0051/97 issue 11.

The unsafe condition is fatigue cracking, damage, and corrosion in certain structure, which could result in reduced structural integrity of the airplane. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued A340 Airworthiness Limitation Items, Document AI/SE–M4/95A.0051/97, Issue 11, dated February 20, 2009. This document provides the mandatory time for maintenance tasks, structural inspection intervals, and related structural inspection procedures. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

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

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

Differences Between the AD and the MCAI or Service Information

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

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

FAA's Determination of the Effective Date

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

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2011–0040; Directorate Identifier 2010–NM–185–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2011–04–06 Airbus: Amendment 39–16606. Docket No. FAA–2011–0040; Directorate Identifier 2010–NM–185–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 2, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A340–211, –212, and –213 airplanes; A340–311, –312, and –313 airplanes; A340–541 airplanes; and A340–642 airplanes; certificated in any category; all manufacturer serial numbers.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (i)(1) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Subject

(d) Air Transport Association (ATA) of America Code 05.

Reason

(e) The mandatory continuing airworthiness information (MCAI) European Aviation Safety Agency (EASA) AD 2009–0192 states:

The airworthiness limitations are currently included in Airbus A340 Airworthiness Limitations Section (ALS).

The airworthiness limitations applicable to Damage Tolerant Airworthiness Limitation Items (DT ALI) are currently given in Airbus A340 ALI Document reference AI/SE–M4/95A.0051/97, which is approved by the European Aviation Safety Agency (EASA) and referenced in Airbus Airworthiness Limitations Section (ALS) Part 2.

The issue 11 of Airbus A340 ALI Document introduces more restrictive maintenance requirements/airworthiness limitations. Failure to comply with this issue 11 constitutes an unsafe condition.

This new [EASA] AD retains the requirements of EASA AD 2007–0158, which is superseded, and requires the implementation of the more restrictive maintenance requirements/airworthiness limitations as specified in Airbus A340 ALI Document AI/SE–M4/95A.0051/97 issue 11.

The unsafe condition is fatigue cracking, damage, and corrosion in certain structure, which could result in reduced structural integrity of the airplane.

Compliance

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

Revise the Maintenance Program

(g) Within 3 months after the effective date of this AD: Revise the maintenance program by incorporating Airbus A340 Airworthiness Limitation Items (ALI), Document AI/SE–M4/95A.0051/97, Issue 11, dated February 20, 2009. At the times specified in Section 2 of Airbus A340 ALI Document AI/SE–M4/95A.0051/97, Issue 11, dated February 20, 2009, comply with all applicable maintenance requirements and associated airworthiness limitations included in Airbus A340 ALI Document AI/SE–M4/95A.0051/97, Issue 11, dated February 20, 2009.

Alternative Intervals or Limits

(h) Except as provided by paragraph (i)(1) of this AD, after accomplishing the actions specified in paragraph (g) of this AD, no alternatives to the maintenance tasks, intervals, or limitations specified in paragraph (g) of this AD may be used.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International

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

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

Related Information

(j) Refer to MCAI EASA Airworthiness Directive 2010–0036, dated March 8, 2010; and Airbus A340 ALI, Document AI/SE–M4/95A.0051/97, Issue 11, dated February 20, 2009; for related information.

Material Incorporated by Reference

(k) You must use the service information contained in Airbus A340 Airworthiness Limitation Items, Document AI/SE–M4/95A.0051/97, Issue 11, dated February 20, 2009; to do the actions required by this AD, unless the AD specifies otherwise. Airbus Document AI/SE–M4/95A.0051/97 contains the following list of effective pages:

Page title/description	Page No.(s)	Issue No.	Date shown on page(s)
Title Page	None shown	11	February 20, 2009.
Table of Contents	1–TOC	None shown*	February 20, 2009.
Record of Revisions	1–ROR—4–ROR	None shown*	February 20, 2009.
Introduction	1–9	None shown*	February 20, 2009.
Airworthiness Limitations:			
Section 2–1 —A340–200/300 Airworthiness Limitations.	1–102	11	February 2009.
Section 2–2 —A340–500/600 Airworthiness Limitations.	1–67	11	February 2009.
Appendix A—Summary of Changes	APXA–1 –APXA–13	None shown*	February 20, 2009.
Appendix B—Abbreviations	APXB–1	None shown*	February 20, 2009.
Appendix C—Terms and Definitions	APXC–1	None shown*	February 20, 2009.

(*The issue number is indicated only on the title page and Airworthiness Limitations pages of this document.)

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

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

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

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

Issued in Renton, Washington, on February 3, 2011.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–3065 Filed 2–14–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0039; Directorate Identifier 2010–NM–184–AD; Amendment 39–16605; AD 2011–04–05]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A340–200, –300, –500, and –600 Series Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI (European Aviation Safety Agency AD 2009–0192) describes the unsafe condition as:

Performing some quality tests on material, Airbus found that some 300M steel forgings used to manufacture certain landing gear components were below specification limits. Adapted airworthiness limitations were introduced in Airbus A340 Airworthiness Limitations Section (ALS) Part 1 "Safe Life Airworthiness Limitation Items (SL ALI)" for different source route codes.

* * * * *

This [EASA] AD introduces more restrictive life limitations for several landing gear components.

The MCAI (EASA AD 2010–0131) describes the unsafe condition as:

* * * * *

The revision 04 of Airbus A330 and A340 ALS Part 1 introduces more restrictive maintenance requirements and/or airworthiness limitations as specified in Airbus A330 and A340 ALS Part 1 revision 04.

The unsafe condition is failure of certain life-limited parts, which could result in reduced structural integrity of the airplane. This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective March 2, 2011.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of March 2, 2011.

We must receive comments on this AD by April 1, 2011.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor,

Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

• *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the aviation authority for the Member States of the European Community, has issued EASA Airworthiness Directives 2010–0131, dated June 28, 2010 and EASA AD 2009–0192, dated August 28, 2009 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI (EASA AD 2009–0192) states:

> Performing some quality tests on material, Airbus found that some 300M steel forgings used to manufacture certain landing gear components were below specification limits. Adapted airworthiness limitations were introduced in Airbus A340 Airworthiness Limitations Section (ALS) Part 1 "Safe Life Airworthiness Limitation Items (SL ALI)" for different source route codes.
>
> A new source route (S3) has since been investigated and has led to another set of adapted airworthiness limitations for affected main fittings.
>
> In addition, further tests based on a new method for damage load selection led to the limitation changes for A340–500/–600 centre landing gear main fitting part number (P/N) 50–1105236–01 and P/N 1105296–00.
>
> This [EASA] AD introduces more restrictive life limitations for several landing gear components.
>
> The MCAI (EASA AD 2010–0131) describes the unsafe condition as:
>
> The airworthiness limitations are currently distributed in the Airbus A330 and A340 Airworthiness Limitations Section (ALS).
>
> The airworthiness limitations applicable to the Safe Life Airworthiness Limitation Items (SL ALI) are given in Airbus A330 and A340 ALS Part 1, which are approved by the European Aviation Safety Agency (EASA).
>
> The revision 04 of Airbus A330 and A340 ALS Part 1 introduces more restrictive maintenance requirements and/or airworthiness limitations as specified in Airbus A330 and A340 ALS Part 1 revision 04.
>
> This new [EASA] AD supersedes EASA AD 2007–0300, EASA AD 2008–0152 and EASA AD 2009–0191 and requires the implementation of the new or more restrictive maintenance requirements and/or airworthiness limitations as specified in Airbus A330 and A340 ALS Part 1 revision 04.

The unsafe condition is failure of certain life-limited parts, which could result in reduced structural integrity of the airplane. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued A340 ALS Part 1, Safe Life Airworthiness Limitation Items Revision 05, dated July 29, 2010. This document provides for mandatory replacement times, structural inspection intervals, and related structural inspection procedures or other procedures (*e.g.,* modifications). The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

Other Relevant Rulemaking

On April 20, 2006, we issued AD 2006–09–07, Amendment 39–14577 (71 FR 25919, May 3, 2006), for all Airbus Model A330–200 and –300, and A340–200 and –300 series airplanes, and A340–541 and –642 airplanes. That AD requires operators to revise the Airworthiness Limitations section of the Instructions for Continued Airworthiness to incorporate new information. That information includes, for all affected airplanes, decreased life limit values for certain components; and for Model A330–200 and –300 series airplanes, new inspections, compliance times, and new repetitive intervals to detect fatigue cracking, accidental damage, or corrosion in certain structures. That AD results from a revision to section 9–1 of the Airbus A330 and A340 maintenance planning documents (MPDs) for life limits/monitored parts, and section 9–2 of the Airbus A330 MPD for airworthiness limitations items. Accomplishing the revision in paragraph (g) of this AD eliminates the need for the revision required by paragraph (f)(2) of AD 2006–09–07 for Model A340 airplanes.

FAA's Determination and Requirements of This AD

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

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

Differences Between the AD and the MCAI or Service Information

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

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

FAA's Determination of the Effective Date

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

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2011–0039; Directorate Identifier 2010–NM–184–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2011–04–05 Airbus: Amendment 39–16605. Docket No. FAA–2011–0039; Directorate Identifier 2010–NM–184–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 2, 2011.

Affected ADs

(b) This AD affects AD 2006–09–07, Amendment 39–14577.

Applicability

(c) This AD applies to Airbus Model A340–211, –212, and –213 airplanes; A340–311, –312, and –313 airplanes; A340–541 airplanes; and A340–642 airplanes; certificated in any category; all manufacturer serial numbers.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j)(1) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Subject

(d) Air Transport Association (ATA) of America Code 05.

Reason

(e) The mandatory continuing airworthiness information (MCAI) (European Aviation Safety Agency (EASA) AD 2009–0192) states:

Performing some quality tests on material, Airbus found that some 300M steel forgings used to manufacture certain landing gear components were below specification limits. Adapted airworthiness limitations were introduced in Airbus A340 Airworthiness Limitations Section (ALS) Part 1 "Safe Life Airworthiness Limitation Items (SL ALI)" for different source route codes.

* * * * *

This [EASA] AD introduces more restrictive life limitations for several landing gear components.

The MCAI (EASA AD 2010–0131) describes the unsafe condition as:

* * * * *

The revision 04 of Airbus A330 and A340 ALS Part 1 introduces more restrictive maintenance requirements and/or airworthiness limitations as specified in Airbus A330 and A340 ALS Part 1 revision 04.

The unsafe condition is failure of certain life-limited parts, which could result in reduced structural integrity of the airplane.

Compliance

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

Revise the Maintenance Program

(g) Within 3 months after the effective date of this AD: Revise the maintenance program by incorporating Airbus A340 ALS Part 1—Safe Life Airworthiness Limitation Items (SL ALI), Revision 05, dated July 29, 2010. At the times specified in the Airbus A340 ALS Part 1—SL ALI, Revision 05, dated July 29, 2010, comply with all applicable maintenance requirements and associated airworthiness limitations specified in Airbus A340 ALS, Part 1—SL ALI, Revision 05, dated July 29, 2010.

Alternative Intervals or Limits

(h) Except as provided by paragraph (j)(1) of this AD, after accomplishing the actions specified in paragraph (g) of this AD, no alternative to the replacements, replacement intervals, or limitations specified in paragraph (g) of this AD may be used.

Method of Compliance With Paragraph (f)(2) of AD 2006–09–07

(i) Doing the revision required by paragraph (g) of this AD terminates the requirements of paragraph (f)(2) of AD 2006–09–07 for that Model A340 airplane only.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: Although the MCAI specifies a compliance time of "from the effective date of this AD" for revising the maintenance program to incorporate Airbus A340 ALS Part 1—Safe Life Airworthiness Limitation Items, Revision 05, dated July 29, 2010; this AD requires the action be done within 3 months after the effective date of this AD.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1138; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

Related Information

(k) Refer to MCAI EASA Airworthiness Directive 2010–0131, dated June 28, 2010, and 2009–0192, dated August 28, 2009; and Airbus A340 ALS Part 1—Safe Life Airworthiness Limitation Items, Revision 05, dated July 29, 2010; for related information.

Material Incorporated by Reference

(l) You must use the service information contained in Airbus A340 Airworthiness Limitations Section, Part 1—Safe Life Airworthiness Limitations Items, Revision 05, dated July 29, 2010; to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

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

Issued in Renton, Washington, on February 3, 2011.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–3067 Filed 2–14–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0377; Directorate Identifier 2009–NM–246–AD; Amendment 39–16599; AD 2011–03–15]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 767 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Model 767 airplanes. This AD requires doing a detailed inspection for correct main track downstop assembly, thread protrusion, and damaged and missing parts of the main track downstop assemblies of the outboard slats, and related investigative and corrective actions if necessary. This AD also requires doing a detailed inspection for foreign objects, debris and damage to the wall of the track housing of the outboard slats, and corrective actions if necessary. This AD results from reports of broken bolts in the outboard slat main track downstop assembly. We are issuing this AD to detect and correct incorrectly installed main track downstop assemblies, which can allow the main track downstop hardware to fall into the track housing and cause a puncture in the track housing when the slat is retracted. This condition, if not corrected, could result in a fuel leak and an increased risk of fire.

DATES: This AD is effective March 22, 2011.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of March 22, 2011.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6577; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain Model 767 airplanes. That NPRM was published in the **Federal Register** on April 8, 2010 (75 FR 17887). That NPRM proposed to require doing a detailed inspection for correct main track downstop assembly, thread protrusion, and damaged and missing parts of the main track downstop assemblies of the outboard slats, and related investigative and corrective actions if necessary. That proposed AD also proposed to require doing a detailed inspection for foreign objects debris and damage to the wall of the track housing of the outboard slats, and corrective actions if necessary.

Relevant Service Information

The NPRM referred to Boeing Special Attention Service Bulletin 767–57–0118, dated October 8, 2009. We reviewed Boeing Special Attention Service Bulletin 767–57–0118, Revision 1, dated October 21, 2010. This service bulletin revision adds an option to inspect either the bolt or nut for looseness by applying torque to the main track downstop assembly nut or the bolt head, corrects a reference, and removes the references to slat numbers 6 and 7 in Appendix A. This service bulletin revision does not add any additional work for the affected airplanes.

Comments

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

Request To Add Boeing Document D–590 as Source of Additional Guidance

American Airlines (AAL) requested that we specify that Boeing Document D–590 may be used as a source for acceptable fastener and material

substitution in a note in the General Information section of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 767–57–0118, dated October 8, 2009.

From this request, we infer that AAL asked that we include Boeing Document D–590 as a source for the acceptable fastener and material substitution in the NPRM. We disagree that adding this document to the requirements of the AD is necessary. Boeing Document D–590 is the collection of many Boeing standards and specifications. We have determined that this document is too broad for this AD. We have not changed the final rule in regard to this issue.

Request To Clarify Fitting Location

AAL requested that we clarify the fitting location. AAL stated that it believes the 114T2520 fitting located at outboard slat station (OSS) 426.997 should be removed to facilitate proper torque checking of the bolts. AAL stated that Boeing confirmed that it is acceptable to remove the stop fitting(s) as required for access and that it is safe to remove the stop fitting(s) without rigging the slats. AAL also stated that Boeing does not plan to revise Boeing Special Attention Service Bulletin 767–57–0118, dated October 8, 2009, to include removal or installation procedures for the stop fitting(s) for access purposes. AAL reported that Boeing does plan to add a note in the next revision of Boeing Special Attention Service Bulletin 767–57–0118, dated October 8, 2009, that states "if it is necessary to remove more parts for access, you can remove those parts. You must install all parts removed for access before the airplane is put back in service." As a result, AAL requested that we revise the NPRM to incorporate a note providing steps to remove the up-stop fitting as required to facilitate the torque check, to reinstall the up-stop fitting in accordance with Boeing Drawing 114T2160, and to torque the nuts using Boeing Airplane Company (BAC) procedure 5009 or an equivalent operator procedure.

We agree that clarification might be necessary. Based on the best data available, the manufacturer provided the procedures necessary to do the required actions. Note 8 in Section A. "General Information" of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 767–57–0118, Revision 1, dated October 21, 2010, states, "If it is necessary to remove more parts for access, you can remove those parts. If you can get access without removing identified parts, it is not necessary to remove all of the identified parts." The procedures in AD rulemaking actions, however, typically do not include procedures such as the steps required to gain access and close up. We have updated the final rule to refer to the latest issue of the service information.

Request To Revise Requirements for Torque Check

AAL stated that a single torque check could be accomplished rather than the two distinct checks as specified in Steps 1 and 2 of Figures 2 and 5 of Boeing Special Attention Service Bulletin 767–57–0118, dated October 8, 2009. AAL stated that in these figures, the torque check is accomplished by first holding the bolt head and applying force to the nut to verify that it does not turn on the bolt threads. AAL stated that the torque is checked secondly by applying torque to the head and verifying that the bolt does not rotate. AAL stated that applying torque to the nut without holding the head will adequately test the same conditions. AAL stated that if the bolt and nut are loose and if torque is applied to the nut, either the nut will turn on the bolt or the bolt will turn with the nut. AAL stated that if neither turns, then they are tight. AAL asserted that this procedure would eliminate some work steps and simplify the task.

We agree with the reasons provided by the commenter. As stated previously Boeing has released Special Attention Service Bulletin 767–57–0118, Revision 1, dated October 21, 2010, which corrects that information. We have revised the final rule to refer to this service bulletin as the appropriate source of service information.

Request To Change Reference to Airplane Maintenance Manual (AMM)

Continental Airlines (CAL) requested that Boeing Special Attention Service Bulletin 767–57–0118, dated October 8, 2009, be revised to correct the reference to the AMM section to 27–81–34, not 27–81–00.

We agree. As stated previously Boeing has released Special Attention Service Bulletin 767–57–0118, Revision 1, dated October 21, 2010, which corrects that information. We have revised the final rule to refer to this revision as the appropriate source of service information.

Request To Revise Costs of Compliance

United Airlines (United) requested that we revise the Costs of Compliance section of the NPRM. United noted that the FAA estimated 8 work-hours to comply with the proposed requirements of the NPRM, and Boeing Special Attention Service Bulletin 767–57–0118, dated October 8, 2009, estimated 22 work-hours.

We disagree with the request to revise the Costs of Compliance section of this AD. The economic analysis is limited to the cost of actions actually required by the rule. It does not consider the costs of "on condition" actions (*e.g.,* "repair, if necessary") because, regardless of AD direction, those actions would be required to correct an unsafe condition identified in an airplane and ensure operation of that airplane in an airworthy condition, as required by the Federal Aviation Regulations. We have made no change to this final rule regarding this issue.

Request To Add Damage Reporting Allowance in Paragraph (h) of the NPRM

Boeing requested that we clarify that if damage is found while inspecting the slat track housing, operators should contact the FAA for approval of an alternative method of compliance (AMOC) only when the damage exceeds the allowance contained in Boeing Special Attention Service Bulletin 767–57–0118. Boeing stated that this service bulletin contains damage blend-out allowances (0.015-inch blend-out depth on a 0.063-inch-thick wall) for the slat track housing in Figure 8. Boeing stated that the NPRM does not provide for the existing repair information contained in this service bulletin and requires that all repairs be submitted to the FAA for approval of AMOCs.

We agree with the request for the reasons the commenter provided, and we have revised paragraph (h) of this AD accordingly.

Explanation of Change to This AD

We added a new paragraph (k) to this final rule to provide information on the federal Paperwork Reduction Act. We have reidentified subsequent paragraphs accordingly.

Conclusion

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

Costs of Compliance

We estimate that this AD affects 361 airplanes of U.S. registry. We also estimate that it will take about 8 work-hours per product to comply with this AD. The average labor rate is $85 per work-hour. Required parts will cost $0

per product. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $245,480, or $680 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2011–03–15 The Boeing Company: Amendment 39–16599. Docket No. FAA–2010–0377; Directorate Identifier 2009–NM–246–AD.

Effective Date

(a) This airworthiness directive (AD) is effective March 22, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to The Boeing Company Model 767–200, –300, –300F, and –400ER series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 767–57–0118, Revision 1, dated October 21, 2010.

Subject

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

Unsafe Condition

(e) This AD results from reports of broken bolts in the main track downstop assembly of the outboard slat. The Federal Aviation Administration is issuing this AD to detect and correct incorrectly installed main track downstop assemblies, which can allow the main track downstop hardware to fall into the track housing and cause a puncture in the track housing when the slat is retracted. This condition, if not corrected, could result in a fuel leak and an increased risk of fire.

Compliance

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

Inspection

(g) Within 24 months after the effective date of this AD, do the actions specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Do a detailed inspection for correct assembly, thread protrusion, and damaged and missing parts of the main track downstop assemblies of outboard slats 1 through 5 and slats 8 through 12, and do all applicable related investigative and corrective actions, in accordance with Part 2 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 767–57–0118, Revision 1, dated October 21, 2010. Do all applicable related investigative and corrective actions before further flight.

(2) Do a detailed inspection for foreign objects debris and damage to the wall of the track housing of the outboard slats 1 through 5 and slats 8 through 12, and do all applicable corrective actions, in accordance with Part 3 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 767–57–0118, Revision 1, dated October 21, 2010, except as required by paragraph (h) of this AD. Do all applicable corrective actions before further flight.

Exception to the Service Bulletin

(h) If any damage is found during any inspection required by paragraph (g)(2) of this AD, and that damage exceeds the allowable damage contained in Figure 8 of Boeing Special Attention Service Bulletin 767–57–0118, Revision 1, dated October 21, 2010, before further flight, replace the track housing or repair the damage using a method approved in accordance with the procedures specified in paragraph (l) of this AD.

Credit for Actions Accomplished in Accordance With Previous Service Information

(i) Actions accomplished in accordance with Boeing Special Attention Service Bulletin 767–57–0118, dated October 8, 2009, before the effective date of this AD, are acceptable for compliance with the corresponding actions specified in this AD, provided that the provisions of paragraph (h) of this AD are complied with.

Reporting

(j) Submit a report of positive findings of the inspections required by paragraph (g) of this AD to the Manager, Seattle Aircraft Certification Office (ACO), FAA, at the applicable time specified in paragraph (j)(1) or (j)(2) of this AD. The report must include the inspection results, a description of any discrepancies found, the airplane registry, variable or line number, and the number of landings and flight hours on the airplane. The report does not need to include reporting on slats 6 and 7. Under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120 0056.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

Paperwork Reduction Act Burden Statement

(k) A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800

Independence Ave., SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

Alternative Methods of Compliance (AMOCs)

(l)(1) The Manager, Seattle ACO, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6577; fax (425) 917–6590. Information may be e-mailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

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

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

Material Incorporated by Reference

(m) You must use Boeing Special Attention Service Bulletin 767–57–0118, Revision 1, dated October 21, 2010, to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

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

Issued in Renton, Washington, on January 28, 2011.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–2515 Filed 2–14–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–1038; Directorate Identifier 2009–NM–250–AD; Amendment 39–16601; AD 2011–04–01]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Model F.28 Mark 0070 and 0100 Airplanes

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

ACTION: Final rule.

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

During a normal walkaround check on a F28 Mark 0100 aeroplane, a large crack was discovered in the lower portion of the right (RH) MLG [main landing gear] piston. The affected MLG unit had accumulated 7909 flight cycles (FC) at the time of detection. * * *

This condition, if not detected and corrected, could lead to MLG failure, possibly resulting in loss of control of the aeroplane during the landing roll-out.

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

DATES: This AD becomes effective March 22, 2011.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 22, 2011.

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

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone 425–227–1137; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on October 21, 2010 (75 FR 64963). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

During a normal walkaround check on a F28 Mark 0100 aeroplane, a large crack was discovered in the lower portion of the right (RH) MLG [main landing gear] piston. The affected MLG unit had accumulated 7909 flight cycles (FC) at the time of detection. The piston has been sent to Goodrich, the landing gear manufacturer, for detailed investigation.

This condition, if not detected and corrected, could lead to MLG failure, possibly resulting in loss of control of the aeroplane during the landing roll-out.

For the reasons described above, this AD requires a one-time detailed visual inspection of the MLG pistons, the replacement of any MLG pistons on which cracks are detected, and the reporting of all findings to the aeroplane TC [type certificate] holder. The inspection results, in combination with the findings of the crack/metallurgical investigation of the cracked piston by Goodrich, will be used to determine the necessity of additional and/or more detailed inspections, or any other corrective action. This AD is considered an interim measure, and further action is likely to follow.

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

Comments

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

Request To Update Reference to MCAI

The European Aviation Safety Agency (EASA) requested that we update the NPRM to refer to EASA AD 2009–0221R1, dated June 30, 2010. This EASA AD corrects a typographical error, which was the source of a difference between the FAA NPRM and the EASA AD.

We agree with the EASA's request to update this final rule to refer to the latest EASA AD. We have also revised Note 1 of the final rule to state that there are no differences between the EASA AD and the FAA AD.

Conclusion

We reviewed the available data, including the comment received, and determined that air safety and the

public interest require adopting the AD with the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 6 products of U.S. registry. We also estimate that it will take about 3 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $1,530 or $255 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2011–04–01 Fokker Services, B.V.: Amendment 39–16601. Docket No. FAA–2010–1038; Directorate Identifier 20009–NM–250–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 22, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes, certificated in any category, equipped with Goodrich (formerly Menasco, Colt Industries) main landing gear (MLG) units having part number (P/N) 41050–7, 41050–8, 41050–9, 41050–10, 41050–11, 41050–12, 41050–13, 41050–14, 41050–15, 41050–16, 41060–1, 41060–2, 41060–3, 41060–4, 41060–5, or 41060–6.

Subject

(d) Air Transport Association (ATA) of America Code 32: Landing gear.

Reason

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

During a normal walkaround check on a F28 Mark 0100 aeroplane, a large crack was discovered in the lower portion of the right (RH) MLG piston. The affected MLG unit had accumulated 7909 flight cycles (FC) at the time of detection. The piston has been sent to Goodrich, the landing gear manufacturer, for detailed investigation.

This condition, if not detected and corrected, could lead to MLG failure, possibly resulting in loss of control of the aeroplane during the landing roll-out.

For the reasons described above, this AD requires a one-time detailed visual inspection of the MLG pistons, the replacement of any MLG pistons on which cracks are detected, and the reporting of all findings to the aeroplane TC [type certificate] holder. The inspection results, in combination with the findings of the crack/metallurgical investigation of the cracked piston by Goodrich, will be used to determine the necessity of additional and/or more detailed inspections, or any other corrective action. This AD is considered an interim measure, and further action is likely to follow.

Compliance

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

Inspection

(g) Within 30 days after the effective day of this AD, do a detailed visual inspection for cracks of the MLG pistons, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–32–158, dated October 2, 2009.

(h) If any cracked MLG piston is found during the inspection required by paragraph (g) of this AD, before further flight replace the affected piston with a serviceable part, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–32–158, dated October 2, 2009.

(i) At the applicable time specified in paragraph (i)(1) or (i)(2) of this AD, report the inspection results (including no findings) to Fokker Services B.V. by using the Questionnaire provided in Fokker Service Bulletin SBF100–32–158, dated October 2, 2009.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone 425–227–1137; fax 425–227–1149. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(3) *Reporting Requirements:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave., SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

Related Information

(k) For related information, refer to MCAI European Aviation Safety Agency Airworthiness Directive 2009–0221R1, dated June 30, 2010; and Fokker Service Bulletin SBF100–32–158, dated October 2, 2009.

Material Incorporated by Reference

(l) You must use Fokker Service Bulletin SBF100–32–158, dated October 2, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands; telephone +31 (0)252–627–350; fax +31 (0)252–627–211; e-mail *technicalservices.fokkerservices@stork.com;* Internet *http://www.myfokkerfleet.com.*

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

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

Issued in Renton, Washington, on January 31, 2011.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–2823 Filed 2–14–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0594; Directorate Identifier 98–ANE–43–AD; Amendment 39–16604; AD 2011–04–04]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT8D–209, –217, –217A, –217C, and –219 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for Pratt & Whitney (PW) JT8D–209, –217, –217A, –217C, and –219 turbofan engines. That AD currently requires revisions to the engine manufacturer's time limits section (TLS) to include enhanced inspection of selected critical life-limited parts at each piece-part opportunity. This new AD modifies the TLS of the manufacturer's engine manual and an air carrier's approved continuous airworthiness maintenance program to incorporate additional inspection requirements. This AD was prompted by PW developing, and the FAA approving, improved inspection procedures for the critical life-limited parts. The mandatory inspections are needed to identify those critical rotating parts with conditions, which if allowed to continue in service, could result in uncontained failures. We are issuing this AD to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

DATES: This AD is effective March 22, 2011.

ADDRESSES:

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7178, fax: 781–238–7199; e-mail: *ian.dargin@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2005–18–02, Amendment 39–14242 (70 FR 71610, November 29, 2005). That AD applies to the specified products. The NPRM published in the **Federal Register** on August 18, 2010 (75 FR 50945). That NPRM proposed to modify the TLS of the manufacturer's engine manual and an air carrier's approved continuous airworthiness maintenance program to incorporate additional inspection requirements. PW has developed and the FAA has approved improved inspection procedures for the critical life-limited parts. The mandatory inspections are needed to identify those critical rotating parts with conditions which, if allowed to continue in service, could result in uncontained failures.

Comment

We gave the public the opportunity to participate in developing this AD. The following presents the comment received on the proposal and the FAA's response to the comment.

Request

One commenter, American Airlines, requested that we change the

compliance time from within 30 days after the effective date of the AD, to within 180 days after the effective date of the AD. This change would give PW the time to revise fan hub inspection Alert Service Bulletin No. A6272, dated September 24, 1996, to obtain an Alternative Method of Compliance to fan hub inspection AD 97–17–04R1, and to allow automatic eddy current inspection per engine manual Section 72–33–31, Inspection No.–05.

We agree. Availability of the tooling will take about 6 months, and the risk will be negligible since a manual inspection is now in place. We revised this AD as requested.

Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting the AD with the change described previously. We also determined that this change will not increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

We estimate that this AD will affect 1,143 JT8D–209, –217, –217A, –217C, and –219 turbofan engines installed on airplanes of U.S. registry. We also estimate that it will take about 10 work-hours per engine to perform the actions, and that the average labor rate is $85 per work-hour. Since this is an added inspection requirement, included as part of the normal maintenance cycle, no additional part costs are involved. Based on these figures, we estimate the total cost of the AD to U.S. operators to be $971,550.

Authority for This Rulemaking

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

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

Regulatory Findings

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),

(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, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–14242 (70 FR 71610, November 29, 2005), and adding the following new AD:

2011–04–04 Pratt & Whitney: Amendment 39–16604. Docket No. FAA–2010–0594; Directorate Identifier 98–ANE–43–AD.

Effective Date

(a) This airworthiness directive (AD) is effective March 22, 2011.

Affected ADs

(b) This AD supersedes AD 2005–18–02, Amendment 39–14242.

Applicability

(c) This AD applies to Pratt & Whitney (PW) JT8D–209, –217, –217A, –217C, and –219 turbofan engines. These engines are installed on, but not limited to Boeing 727 and McDonnell Douglas MD–80 series airplanes.

Unsafe Condition

(d) This AD results from the need to require enhanced inspection of selected critical life-limited parts of JT8D–209, –217, –217A, –217C, and –219 turbofan engines. We are issuing this AD to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

Compliance

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

(f) Within the next 180 days after the effective date of this AD, (1) revise the Time Limits section (TLS) of the manufacturer's engine manual, part number 773128, as appropriate for PW JT8D–209, –217, –217A, –217C, and –219 turbofan engines, and (2) for air carriers, revise the approved mandatory inspections section of the continuous airworthiness maintenance program, by adding the following:

"Critical Life Limited Part Inspection

A. Inspection Requirements:

(1) This section contains the definitions for individual engine piece-parts and the inspection procedures, which are necessary, when these parts are removed from the engine.

(2) It is necessary to do the inspection procedures of the piece-parts in Paragraph B when:

(a) The part is removed from the engine and disassembled to the level specified in paragraph B and

(b) The part has accumulated more than 100 cycles since the last piece-part inspection, provided that the part is not damaged or related to the cause of its removal from the engine.

(3) The inspections specified in this section do not replace or make unnecessary other recommended inspections for these parts or other parts.

B. Parts Requiring Inspection.

Note: Piece-part is defined as any of the listed parts with all the blades removed.

Description	Section	Inspection No.
Hub (Disk), 1st Stage Compressor:		
* Hub Detail—All P/Ns	72–33–31	–03, –04, –05
* Hub Assembly—All P/Ns	72–33–31	–03, –04, –05
Disk, 13th Stage Compressor—All P/Ns	72–36–47	–02
HP Turbine, First Stage:		
Rotor Assembly—All P/Ns	72–52–02	–04

Description	Section	Inspection No.
Disk—All P/Ns	72–52–02	–03
Disk, 2nd Stage Turbine—All P/Ns	72–53–16	–02
* Disk, 3rd Stage Turbine—All P/Ns	72–53–17	–02, –03
* Disk, 4th Stage Turbine—All P/Ns	72–53–18	–02, –03

(g) The parts that have an Engine Manual Inspection Task and or Sub Task Number reference updated in the table of this AD, are identified by an asterisk (*) that precedes the part nomenclature.

(h) Except as provided in paragraph (i) of this AD, and notwithstanding contrary provisions in section 43.16 of the Federal Aviation Regulations (14 CFR 43.16), these mandatory inspections shall be performed only in accordance with the TLS of the manufacturer's engine manual.

Alternative Methods of Compliance (AMOC)

(i) You must perform these mandatory inspections using the TLS of the manufacturer's engine manual unless you receive approval to use an AMOC under paragraph (j) of this AD. Section 43.16 of the Federal Aviation Regulations (14 CFR 43.16) may not be used to approve alternative methods of compliance or adjustments to the times in which these inspections must be performed.

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

Maintaining Records of the Mandatory Inspections

(k) You have met the requirements of this AD when you revise the TLS of the manufacturer's engine manual as specified in paragraph (f) of this AD. For air carriers operating under part 121 of the Federal Aviation Regulations (14 CFR part 121), you have met the requirements of this AD when you modify your continuous airworthiness maintenance plan to reflect those changes. You do not need to record each piece-part inspection as compliance to this AD, but you must maintain records of those inspections according to the regulations governing your operation. For air carriers operating under part 121, you may use either the system established to comply with section 121.369 or an alternative accepted by your principal maintenance inspector if that alternative:

(1) Includes a method for preserving and retrieving the records of the inspections resulting from this AD; and

(2) Meets the requirements of section 121.369(c); and

(3) Maintains the records either indefinitely or until the work is repeated.

(l) These record keeping requirements apply only to the records used to document the mandatory inspections required as a result of revising the TLS of the manufacturer's engine manual as specified in paragraph (f) of this AD. These record keeping requirements do not alter or amend the record keeping requirements for any other AD or regulatory requirement.

Related Information

(m) For more information about this AD, contact Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *ian.dargin@faa.gov;* phone: 781–238–7178, fax: 781–238–7199.

Issued in Burlington, Massachusetts, on February 3, 2011.

Peter A. White,

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

[FR Doc. 2011–3347 Filed 2–14–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–1112; Directorate Identifier 2010–NM–051–AD; Amendment 39–16607; AD 2011–04–07]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Model F.28 Mark 0070 and 0100 Airplanes

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

ACTION: Final rule.

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

The flight crew of a F28 Mark 0070 (Fokker 70) aeroplane received a MLG [main landing gear] unsafe message after landing gear down selection during approach. * * *

Inspection just after landing revealed a lot of ice near the LH [left-hand] MLG downlock actuator. * * *

Based on the quantity and location of the ice, it is considered highly likely that the ice had formed between the upper end of the downlock actuator and the upper side brace, and was accumulated during taxi on slush- and snow-contaminated taxiways and runway at the departure airport.

Ice in this location prevents the actuator from turning freely relative to the upper side brace during landing gear down selection, likely resulting in failure of the piston rod. This condition, if not corrected, could lead to further cases of MLG extension problems, possibly resulting in loss of control of the aeroplane during landing roll-out.

* * * * *

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

DATES: This AD becomes effective March 22, 2011.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 22, 2011.

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

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on November 15, 2010 (75 FR 69606). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

The flight crew of a F28 Mark 0070 (Fokker 70) aeroplane received a MLG [main landing gear] unsafe message after landing gear down selection during approach. After cycling the landing gear, only a LH [left-hand] MLG unsafe indication remained. A go-around was initiated and alternate landing gear down selection was performed twice, but the LH MLG did not lock down. During final approach, without further flight crew action, all 3 green lights illuminated and an uneventful landing was made.

Inspection just after landing revealed a lot of ice near the LH MLG downlock actuator. Further investigation revealed that the piston rod of the downlock actuator had failed at the threaded end close to the eye end, which is attached to the lower lock link, and that the piston rod was broken in an overload by

bending in the neck close to the threaded end.

Based on the quantity and location of the ice, it is considered highly likely that the ice had formed between the upper end of the downlock actuator and the upper side brace, and was accumulated during taxi on slush- and snow-contaminated taxiways and runway at the departure airport.

Ice in this location prevents the actuator from turning freely relative to the upper side brace during landing gear down selection, likely resulting in failure of the piston rod. This condition, if not corrected, could lead to further cases of MLG extension problems, possibly resulting in loss of control of the aeroplane during landing roll-out.

To address this unsafe condition and prevent the accumulation of water, slush and/or snow, Goodrich, the MLG manufacturer, has introduced a new upper side brace, Part Number (P/N) 41350–3, which has two additional drain holes. Goodrich Service Bulletin (SB) 41350–32–25 describes the modification of the P/N 41350–1 MLG upper side brace, introducing the two additional drain holes and consequent re-identification of the part to P/N 41350–3.

For the reasons described above, this AD requires modification of both (LH and RH [right-hand]) P/N 41350–1 MLG upper side braces, or replacement of the P/N 41350–1 upper side braces with modified P/N 41350–3 upper side braces.

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

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 6 products of U.S. registry. We also estimate that it will take about 16 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $8,160, or $1,360 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2011–04–07 Fokker Services B.V.: Amendment 39–16607. Docket No. FAA–2010–1112; Directorate Identifier 2010–NM–051–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 22, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes, certificated in any category; all serial numbers, if equipped with Goodrich (formerly Menasco, Colt Industries) main landing gears (MLGs) fitted with MLG upper side braces having part number (P/N) 41350–1.

Subject

(d) Air Transport Association (ATA) of America Code 32: Landing Gear.

Reason

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

The flight crew of a F28 Mark 0070 (Fokker 70) aeroplane received a MLG [main landing gear] unsafe message after landing gear down selection during approach. * * *

Inspection just after landing revealed a lot of ice near the LH [left-hand] MLG downlock actuator. * * *

Based on the quantity and location of the ice, it is considered highly likely that the ice had formed between the upper end of the downlock actuator and the upper side brace, and was accumulated during taxi on slush- and snow-contaminated taxiways and runway at the departure airport.

Ice in this location prevents the actuator from turning freely relative to the upper side brace during landing gear down selection, likely resulting in failure of the piston rod. This condition, if not corrected, could lead to further cases of MLG extension problems, possibly resulting in loss of control of the aeroplane during landing roll-out.

* * * * *

Compliance

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

Actions

(g) Within 8,000 flight cycles after the effective date of this AD, modify or replace the side stay upper braces of the left-hand and right-hand MLG, in accordance with the Accomplishment Instructions of Goodrich Service Bulletin 41350–32–25, dated January 30, 2009; and Fokker Service Bulletin SBF100–32–157, Revision 1, dated October 7, 2009.

(h) After modifying the side stay upper braces of the left-hand and right-hand MLG as required by paragraph (g) of this AD, do not install any Goodrich (formerly Menasco, Colt Industries) side stay upper brace assembly having P/N 41350–1 on any airplane.

(i) After modifying the side stay upper braces of the left-hand and right-hand MLG as required by paragraph (g) of this AD, do not install any Goodrich (formerly Menasco, Colt Industries) MLG on any airplane, unless the replacement MLG has side stay upper braces having P/N 41350–3.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(3) *Reporting Requirements:* A Federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

Related Information

(k) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2009–0268, dated December 17, 2009; Fokker Service Bulletin SBF100–32–157, Revision 1, dated October 7, 2009; and Goodrich Service Bulletin 41350–32–25, dated January 30, 2009; for related information.

Material Incorporated by Reference

(l) You must use Fokker Service Bulletin SBF100–32–157, Revision 1, dated October 7, 2009; and Goodrich Service Bulletin 41350–32–25, dated January 30, 2009; to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For Fokker service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands; telephone +31 (0)252–627–350; fax +31 (0)252–627–211; e-mail *technicalservices.fokkerservices@stork.com;* Internet *http://www.myfokkerfleet.com.* For Goodrich service information identified in this AD, contact Goodrich Corporation, Landing Gear, 1400 South Service Road, West Oakville L6L 5Y7, Ontario, Canada; telephone 905–825–1568; e-mail *jean.breed@goodrich.com;* Internet *http://www.goodrich.com/TechPubs.*

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

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

Issued in Renton, Washington, on February 3, 2011.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–3071 Filed 2–14–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0722 Airspace Docket No. 10–AAL–17]

Revision of Class E Airspace; Barrow, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Wiley Post/Will Rogers Memorial Airport in Barrow, AK, in order to accommodate the amendment of five Standard Instrument Approach Procedures (SIAPs), and one Obstacle Departure Procedure (ODP) and to enhance safety and management of Instrument Flight Rules (IFR) operations.

DATES: Effective 0901 UTC, May 5, 2011. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Martha Dunn, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *Martha.ctr.Dunn@faa.gov.* Internet address: *http://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/fs/alaskan/rulemaking/.*

SUPPLEMENTARY INFORMATION:

History

On Monday, November 22, 2010, the FAA published a notice of proposed rulemaking in the **Federal Register** to revise Class E airspace at Barrow, Alaska (75 FR 71046).

Interested parties were invited to participate in this rulemaking process

by submitting written comments on the proposal to the FAA. No comments were received.

There was an error in the notice of proposed rulemaking regarding the E5 airspace coordinates for Wiley Post/Will Rogers Memorial Airport at Barrow, Alaska. This error has been corrected in the final rule.

The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9U, *Airspace Designations and Reporting Points,* signed August 18, 2010 and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by revising Class E airspace at Wiley Post/Will Rogers Memorial Airport at Barrow, AK, to accommodate five amended RNAV SIAPs, and one ODP. This Class E airspace will provide adequate controlled airspace upward from 700 and 1,200 feet above the surface for safety and management of IFR operations at Wiley Post/Will Rogers Memorial Airport, Barrow, Alaska. With the exception of editorial changes, and the changes described above, this rule is the same as that proposed in the NPRM.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Because this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart 1, section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Wiley Post/Will Rogers Memorial Airport at Barrow, Alaska and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9U, *Airspace Designations and Reporting Points,* signed August 18, 2010, and effective September 15, 2010, is amended as follows:

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E2 Barrow, AK [Revised]

Wiley Post/Will Rogers Memorial Airport, AK
(Lat. 71°17′06″; long. 156°46′07″.)

Within a 4.1 mile radius of the Wiley Post/Will Rogers Memorial Airport, AK.

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Barrow, AK [Revised]

Wiley Post/Will Rogers Memorial Airport, AK
(Lat. 71°17′06″; long. 156°46′ 07″.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Wiley Post/Will Rogers Memorial Airport, AK; and that airspace extending upward from 1,200 feet above the surface within a 73-mile radius of the Wiley Post/Will Rogers Memorial Airport, AK.

Issued in Anchorage, AK, on February 4, 2011.

James M. Miller,

Acting Manager, Alaska Flight Services Information Area Group.

[FR Doc. 2011–3252 Filed 2–14–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–1103 Airspace Docket No. 10–AAL–18]

Revision of Class E Airspace; Savoonga, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at the Savoonga Airport, Savoonga, AK. The amendment of three Standard Instrument Approach Procedures (SIAPs) plus the creation of one new SIAP at the Savoonga Airport has made this action necessary to enhance safety and air traffic management of Instrument Flight Rules (IFR) operations.

DATES: Effective 0901 UTC, May 5, 2011. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Martha Dunn, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *martha.ctr.dunn@faa.gov.* Internet address: *http://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/fs/alaskan/rulemaking/.*

SUPPLEMENTARY INFORMATION:

History

On Monday, December 13, 2010, the FAA published a notice of proposed rulemaking in the **Federal Register** to amend Class E airspace at Savoonga, AK (75 FR 77574).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA.

One comment was received. The commenter suggested that the portion of the proposed Class E airspace overlaying Russian airspace should be excluded. The FAA has found merit in this and has adjusted the airspace area to exclude that area outside of U.S. airspace. The FAA also noted that the geographic coordinates for the Savoonga Airport cited in the NPRM were not rounded. This action corrects that error.

The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9U, *Airspace Designations and Reporting Points,* dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by revising Class E airspace to accommodate three amended SIAPs and one new SIAP at the Savoonga Airport, Savoonga, AK. This Class E airspace will provide adequate controlled airspace upward from 700 feet and 1,200 feet above the surface for the safety and management of IFR operations at Savoonga Airport. The 1,200 foot controlled airspace will extend into the Norton Sound Low Offshore Airspace Area and that airspace will be redefined in a future rulemaking action. With the exception of editorial changes, and the changes described above, this rule is the same as that proposed in the NPRM.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Because this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart 1, section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Savoonga Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9U, *Airspace Designations and Reporting Points,* dated August 18, 2010, and effective September 15, 2010, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Savoonga, AK [Revised]

Savoonga Airport, AK
(Lat. 63°41′11″ N., long. 170°29′36″ W.)

That airspace extending upward from 700 feet above the surface within a 7.0-mile radius of the Savoonga Airport, AK, and within 4 miles either side of the 060° bearing from the Savoonga Airport, extending from the 7.0-mile radius to 8.5 miles northeast of the Savoonga Airport; and that airspace extending upward from 1,200 feet above the surface within a 73-mile radius of the Savoonga Airport AK, excluding that portion extending west of a line from lat. 68°00′00″ N., long. 168°58′23″ W., to lat 65°00′00″ N., long. 168°58′23″ W., to lat. 62°35′00″ N., long. 175°00′00″ W.

Issued in Anchorage, AK, on February 4, 2011.

James M. Miller,

Acting Manager, Alaska Flight Services Information Area Group.

[FR Doc. 2011–3247 Filed 2–14–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–1104; Airspace Docket No. 10–AAL–19]

Revision of Class E Airspace; Shungnak, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Shungnak, AK, to accommodate amended Standard Instrument Approach Procedures (SIAPs) at the Shungnak Airport. The FAA is taking this action to enhance safety and management of Instrument Flight Rules (IFR) operations at the Shungnak Airport.

DATES: Effective 0901 UTC, May 5, 2011. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Martha Dunn, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *Martha.ctr.Dunn@faa.gov.* Internet address: *http://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/fs/alaskan/rulemaking/.*

SUPPLEMENTARY INFORMATION:

History

On Monday, December 13, 2010, the FAA published a notice of proposed rulemaking in the **Federal Register** to revise Class E airspace at Shungnak, AK (75 FR 77573).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received.

The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA

Order 7400.9U, *Airspace Designations and Reporting Points,* signed August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by revising Class E airspace at the Shungnak Airport, AK, to accommodate amended SIAPs. This Class E airspace will provide adequate controlled airspace upward from 700 and 1,200 feet above the surface for safety and management of IFR operations at the Shungnak Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Because this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart 1, section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Shungnak Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9U, *Airspace Designations and Reporting Points,* signed August 18, 2010, and effective September 15, 2010, is amended as follows:

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Shungnak, AK [Revised]

Shungnak Airport, AK
(Lat. 66°53′17″ N., long. 157°09′45″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Shungnak Airport and that airspace extending upward from 1,200 feet above the surface within a 72-mile radius of the Shungnak Airport.

* * * * *

Issued in Anchorage, AK, on February 4, 2011.

James M. Miller,

Acting Manager, Alaska Flight Services Information Area Group.

[FR Doc. 2011–3249 Filed 2–14–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–1105; Airspace Docket No. 10–AAL–20]

Revision of Class E Airspace; Platinum, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Platinum, AK, to accommodate the addition of a Standard Instrument Approach Procedure (SIAP), at the Platinum Airport. The FAA is taking this action to enhance safety and management of Instrument Flight Rules (IFR) operations at the Platinum Airport.

DATES: Effective 0901 UTC, May 5, 2011. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Martha Dunn, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *Martha.ctr.Dunn@faa.gov.* Internet address: *http://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/fs/alaskan/rulemaking/.*

SUPPLEMENTARY INFORMATION:

History

On Monday, December 13, 2010, the FAA published a notice of proposed rulemaking in the **Federal Register** to revise Class E airspace at Platinum AK (75 FR 77572).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received.

Subsequent to the publications, the FAA noted that the geographic coordinates for the Platinum Airport cited in the NPRM were not rounded. This action corrects that error.

The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9U, *Airspace Designations and Reporting Points,* signed August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by revising Class E airspace at the Platinum Airport, AK, to accommodate one new SIAP at the Platinum Airport. This Class E airspace will provide adequate controlled airspace upward from 700 and 1,200 feet above the surface for safety and management of IFR operations at the Platinum Airport. The 1,200 foot controlled airspace will extend into the Norton Sound Low Offshore Airspace Area and Control Area 1234L and those airspaces will be redefined in a future rulemaking action.

With the exception of editorial changes, and the changes described above, this rule is the same as that proposed in the NPRM.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Because this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart 1, section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Platinum Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9U, *Airspace Designations and Reporting Points,* signed August 18, 2010, and effective September 15, 2010, is amended as follows:

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Platinum, AK [Revised]

Platinum Airport, AK

(Lat. 59°00′57″ N., long. 161°49′31″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Platinum Airport, and the airspace extending upward from 1,200 feet above the surface within a 73-mile radius of the Platinum Airport.

* * * * *

Issued in Anchorage, AK, on February 4, 2011.

James M. Miller,

Acting Manager, Alaska Flight Services Information Area Group.

[FR Doc. 2011–3250 Filed 2–14–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 77

[Docket No.: FAA–2006–25002; Amendment No. 77–13]

RIN 2120–AH31

Safe, Efficient Use and Preservation of the Navigable Airspace; OMB Approval of Information Collection

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; OMB approval of information collection.

SUMMARY: This document announces the Office of Management and Budget's (OMB's) approval of the information collection requirements in the final rule, published on July 21, 2010, entitled Safe, Efficient Use and Preservation of the Navigable Airspace.

DATES: The final rule published on July 21, 2010 with an effective date of January 18, 2011. The FAA received OMB approval for the information collection requirements in the final rule on January 14, 2011. The information collection requirements in the final rule will become effective on February 15, 2011.

FOR FURTHER INFORMATION CONTACT: For technical questions about the final rule, contact Ellen Crum, Air Traffic Systems Operations, Airspace and Rules Group, AJR–33, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267–8783; facsimile (202) 267–9328.

SUPPLEMENTARY INFORMATION On July 21, 2010, the final rule entitled Safe, Efficient Use and Preservation of the Navigable Airspace, was published in the **Federal Register**.[1] In that rule, the FAA amended the regulations governing objects that may affect the navigable airspace to incorporate case law and legislative action, and to simplify the rule language.

In section III[2] of the preamble to the final rule, the FAA noted that affected parties were not required to comply with the new information collection requirements until OMB approved the FAA's request to collect the information.

In accordance with the Paperwork Reduction Act, the FAA submitted a copy of the new information collection requirements to OMB for its review. On January 14, 2011, OMB approved the FAA's request under Control Number 2120–0745, which will expire January 31, 2013.

Today's notice is being published to inform affected parties of OMB's approval, and to announce that as of the effective date of this notice, affected parties must comply with the new information collection requirements in 14 CFR 77.7, 77.9, and 77.11.

As part of OMB's approval, it advised the FAA that because the form[3] that will be used to collect the new information was previously approved under existing Control Number 2120–0001, the FAA must revise 2120–0001 to incorporate the new information collection requirements and submit the revision to OMB for approval. Accordingly, the FAA will prepare the revision and publish it in the **Federal Register** for public comment. The FAA will consider the comments it receives before finalizing the revision and sending it to OMB for approval. Meanwhile, affected parties must comply with the information collection requirements in the final rule, Safe, Efficient Use and Preservation of the Navigable Airspace, according to OMB's approval under Control Number 2120–0745.

[1] 75 FR 42296; July 21, 2010.

[2] Paperwork Reduction Act.

[3] FAA Form 7460–1: Notice of Proposed Construction or Alteration.

Issued in Washington, DC, on February 9, 2011.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 440

[Docket No. FAA–2010–1150; Amendment No. 440–2]

RIN 2120–AJ85

Clarification of Reciprocal Waivers of Claims for Multiple-Customer Commercial Space Launch and Reentry

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Technical amendment.

SUMMARY: This action clarifies a reciprocal waiver of claims requirement for an FAA authorized launch or reentry in which a licensee or permittee has multiple customers. There has been confusion about whether all customers must sign or whether one customer can sign such an agreement on behalf of all customers. This action eliminates any confusion by clarifying that a reciprocal waiver of claims requires each customer to enter into a waiver with the U.S. Government and the licensee or permittee. However, this action does not change the existing practice for government customers, which is that the FAA signs on their behalf.

DATES: This amendment becomes effective March 17, 2011.

FOR FURTHER INFORMATION CONTACT: Laura Montgomery, Senior Attorney for Commercial Space Transportation, Office of the Chief Counsel, Regulations Division, AGC–200, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3150; facsimile (202) 267–7971; e-mail *laura.montgomery@faa.gov.*

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The statute under which the Secretary of Transportation regulates commercial space transportation, 51 U.S.C. subtitle V, chapter 509, sections 50901–50923 (chapter 509), requires that, for each commercial space launch or reentry, the Department of Transportation (DOT) and, through delegation, the Federal Aviation Administration (FAA) enter into a reciprocal waiver of claims agreement with "the licensee or transferee, contractors, subcontractors, crew, space flight participants, and customers of the licensee or transferee, and contractors and subcontractors of the customers * * *" 51 U.S.C. 50914(b)(2). This requirement also applies to permittees under 51 U.S.C. 50906(i). This rule changes Title 14, Code of Federal Regulations (14 CFR) 440.17(c) to more clearly track Congress' requirement that the reciprocal waiver of claims include all "*customers* of the licensee or transferee * * *" *Id.* (emphasis added).

Prior Rulemakings

Enacted in 1998, § 440.17(c) requires that the U.S. Government, commercial space launch and reentry licensees, and the licensees' customers enter into a reciprocal waiver of claims agreement with the government. *See Financial Responsibility Requirements for Licensed Launch Activities,* 63 FR 45592 (Aug. 26, 1998) (final rule); and *Financial Responsibility Requirements for Licensed Launch Activities,* 61 FR 38992 (Jul. 25, 1996) (notice of proposed rulemaking) ("Financial Responsibility NPRM"). The regulation was amended to require a waiver between the U.S. Government, permittees, and the permittees' customers. *See Human Space Flight Requirements for Crew and Space Flight Participants,* 71 FR 75616 (Dec. 5, 2006) (final rule); and *Experimental Permits for Reusable Suborbital Rockets,* 70 FR 77262 (Dec. 29, 2005) (notice of proposed rulemaking).

Background

The FAA is required by 51 U.S.C. 50914(b)(2) and 50906(i) to enter into a reciprocal waiver of claims agreement with the customers of a licensee or permittee for commercial space flight. The pertinent part of the regulation for implementing this congressional requirement, § 440.17(c), currently mandates that the licensee or permittee and its customer enter into a three-party reciprocal waiver of claims agreement when conducting a licensed or permitted activity in which the federal government, any agency, or its contractors and subcontractors is involved. This requirement also applies to activities where property insurance is required under § 440.9(d).

Unfortunately, the FAA has found that this language has created confusion. The term "three-party reciprocal waiver," in particular, has prompted some customers of commercial space launches to believe that only three parties were necessary to complete the waiver, even if there were multiple customers; and so, under this interpretation, only one customer was considered necessary to sign the waiver. Further, Appendix B and Appendix C of part 440 define, "*Customer*" as the above-named Customer on behalf of the Customer and any person described in § 440.3 of the regulations. Again, customers sometimes read this language to suggest that one customer could sign on behalf of the other customers.

However, a plain language reading of the statute makes it clear that Congress intended the government to enter into a reciprocal waiver of claims with all customers. *See* 51 U.S.C. 50914(b)(2). Further, the notice of proposed rulemaking (NPRM) for § 440.17 shows that the regulation actually captures all customers within the reciprocal waiver requirement. As noted in the Financial Responsibility NPRM:

> A question has been raised by a payload company as to the Office's requirements when multiple customers contract with a launch operator for launch services or there is more than one customer's payload on the launch manifest for a single launch. In those cases, executing a single waiver of claims agreement that includes each customer as a party to the agreement, or executing separate but appropriately modified agreements, would serve to ensure all parties have been included and protected as intended.

See Financial Responsibility NPRM, 61 FR at 39012. Also, in practice, the FAA has held the view that all customers must enter into the reciprocal waiver of claims and has ensured that each customer enter into the waiver of claims.

The changes to Appendix B and Appendix C of part 440 provide examples of waiver agreements for multiple-customer launches and reentries. These examples are included for the convenience of parties involved in commercial space activities. The FAA's intent with these examples is to clarify that each customer must waive claims against all other customers, the U.S. Government, and the licensee or permittee. Each customer is also required to indemnify these other parties against claims by the customer's own contractors and subcontractors.

Further, each customer must extend the reciprocal waiver of claims to its own contractors and subcontractors. However, in no case is any one customer required to indemnify against claims brought by another customer, or to extend the reciprocal waiver of claims to other customers or the contractors and subcontractors of any other customer. Thus, the definition of "customer" in the appendices has been clarified to ensure that one customer cannot sign on behalf of other

customers. Again, these changes are consistent with the Financial Responsibility NPRM and FAA policy.

To maintain consistency, the FAA is also amending paragraph 5(b) of the reciprocal waiver of claims in the appendices. That paragraph addresses how a customer holds harmless and indemnifies the other parties to the waiver and their related entities against claims brought by the customer's contractors and subcontractors. The FAA is removing from 5(b) the statement that the customer indemnifies the other parties against claims brought by any person "on whose behalf" the customer entered into the waiver, namely, under the current but not the new appendix definition, another customer.

The FAA is making this change because the language is unnecessary and incorrect. It is unnecessary because of the FAA's policy and practice of requiring all customers to sign the required waivers; thus, a customer should not be signing on behalf of another customer. It is the licensee who is responsible for obtaining waivers from all customers. Additionally, the regulations do not require a customer to indemnify the other parties for claims made by other customers. *See* 14 CFR 440.17(d). Accordingly, in keeping with this rulemaking's clarification that all customers sign a reciprocal waiver, the FAA is removing the statement that a customer must provide indemnification on behalf of another customer.

List of Subjects in 14 CFR Part 440

Armed forces, Claims; Federal building and facilities, Government property, Indemnity payments, Insurance, Reporting and recordkeeping requirements, Rockets, Space transportation and exploration.

The Amendments

In consideration of the foregoing, the Federal Aviation Administration amends chapter II of title 14, Code of Federal Regulations as follows:

PART 440—FINANCIAL RESPONSIBILITY

■ 1. The authority citation for part 440 is revised to read as follows:

Authority: 51 U.S.C. 50901–50923; 49 CFR 1.47.

■ 2. Amend § 440.17 by revising paragraph (c) to read as follows:

§ 440.17 Reciprocal waiver of claims requirement.

* * * * *

(c) For each licensed or permitted activity in which the U.S. Government, any agency, or its contractors and subcontractors is involved or where property insurance is required under § 440.9(d), the Federal Aviation Administration of the Department of Transportation, the licensee or permittee, and each customer shall enter into a reciprocal waiver of claims agreement. The reciprocal waiver of claims shall be in the form set forth in Appendix B of this part for licensed activity, in Appendix C of this part for permitted activity, or in a form that satisfies the requirements.

* * * * *

■ 3. Revise Appendix B to part 440 to read as follows:

Appendix B to Part 440—Agreement for Waiver of Claims and Assumption of Responsibility for Licensed Activities

Part 1—Waiver of Claims and Assumption of Responsibility for Licensed Launch, Including Suborbital Launch

Subpart A—Waiver of Claims and Assumption of Responsibility for Licensed Launch, Including Suborbital Launch, With One Customer

This agreement is entered into this ____ day of _____, by and among [Licensee] (the "Licensee"), [Customer] (the "Customer") and the Federal Aviation Administration of the Department of Transportation, on behalf of the United States Government (collectively, the "Parties"), to implement the provisions of section 440.17(c) of the Commercial Space Transportation Licensing Regulations, 14 CFR Ch. III (the "Regulations"). This agreement applies to the launch of [Payload] payload on a [Launch Vehicle] vehicle at [Location of Launch Site]. In consideration of the mutual releases and promises contained herein, the Parties hereby agree as follows:

1. Definitions

Contractors and Subcontractors means entities described in § 440.3 of the Regulations.

Customer means the above-named Customer.

License means License No. _____ issued on _____, by the Associate Administrator for Commercial Space Transportation, Federal Aviation Administration, Department of Transportation, to the Licensee, including all license orders issued in connection with the License.

Licensee means the Licensee and any transferee of the Licensee under 51 U.S.C. Subtitle V, ch. 509.

United States means the United States and its agencies involved in Licensed Activities. Except as otherwise defined herein, terms used in this Agreement and defined in 51 U.S.C. Subtitle V, ch. 509—Commercial Space Launch Activities, or in the Regulations, shall have the same meaning as contained in 51 U.S.C. Subtitle V, ch. 509, or the Regulations, respectively.

2. Waiver and Release of Claims

(a) Licensee hereby waives and releases claims it may have against Customer and the United States, and against their respective Contractors and Subcontractors, for Property Damage it sustains and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault.

(b) Customer hereby waives and releases claims it may have against Licensee and the United States, and against their respective Contractors and Subcontractors, for Property Damage it sustains and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault.

(c) The United States hereby waives and releases claims it may have against Licensee and Customer, and against their respective Contractors and Subcontractors, for Property Damage it sustains, and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault, to the extent that claims it would otherwise have for such damage or injury exceed the amount of insurance or demonstration of financial responsibility required under sections 440.9(c) and (e), respectively, of the Regulations.

3. Assumption of Responsibility

(a) Licensee and Customer shall each be responsible for Property Damage it sustains and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault. Licensee and Customer shall each hold harmless and indemnify each other, the United States, and the Contractors and Subcontractors of each Party, for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault.

(b) The United States shall be responsible for Property Damage it sustains, and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault, to the extent that claims it would otherwise have for such damage or injury exceed the amount of insurance or demonstration of financial responsibility required under sections 440.9(c) and (e), respectively, of the Regulations.

4. Extension of Assumption of Responsibility and Waiver and Release of Claims

(a) Licensee shall extend the requirements of the waiver and release of claims, and the assumption of responsibility, hold harmless, and indemnification, as set forth in paragraphs 2(a) and 3(a), respectively, to its Contractors and Subcontractors by requiring them to waive and release all claims they may have against Customer and the United States, and against the respective Contractors and Subcontractors of each, and to agree to be responsible, for Property Damage they sustain and to be responsible, hold harmless and indemnify Customer and the United States, and the respective Contractors and Subcontractors of each, for Bodily Injury or Property Damage sustained by their own employees, resulting from Licensed Activities, regardless of fault.

(b) Customer shall extend the requirements of the waiver and release of claims, and the assumption of responsibility, hold harmless, and indemnification, as set forth in paragraphs 2(b) and 3(a), respectively, to its Contractors and Subcontractors by requiring them to waive and release all claims they may have against Licensee and the United States, and against the respective Contractors and Subcontractors of each, and to agree to be responsible, for Property Damage they sustain and to be responsible, hold harmless and indemnify Licensee and the United States, and the respective Contractors and Subcontractors of each, for Bodily Injury or Property Damage sustained by their own employees, resulting from Licensed Activities, regardless of fault.

(c) The United States shall extend the requirements of the waiver and release of claims, and the assumption of responsibility as set forth in paragraphs 2(c) and 3(b), respectively, to its Contractors and Subcontractors by requiring them to waive and release all claims they may have against Licensee and Customer, and against the respective Contractors and Subcontractors of each, and to agree to be responsible, for any Property Damage they sustain and for any Bodily Injury or Property Damage sustained by their own employees, resulting from Licensed Activities, regardless of fault, to the extent that claims they would otherwise have for such damage or injury exceed the amount of insurance or demonstration of financial responsibility required under sections 440.9(c) and (e), respectively, of the Regulations.

5. Indemnification

(a) Licensee shall hold harmless and indemnify Customer and its directors, officers, servants, agents, subsidiaries, employees and assignees, or any of them, and the United States and its agencies, servants, agents, subsidiaries, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims that Licensee's Contractors and Subcontractors may have for Property Damage sustained by them and for Bodily Injury or Property Damage sustained by their employees, resulting from Licensed Activities.

(b) Customer shall hold harmless and indemnify Licensee and its directors, officers, servants, agents, subsidiaries, employees and assignees, or any of them, and the United States and its agencies, servants, agents, subsidiaries, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims that Customer's Contractors and Subcontractors may have for Property Damage sustained by them and for Bodily Injury or Property Damage sustained by their employees, resulting from Licensed Activities.

(c) To the extent provided in advance in an appropriations law or to the extent there is enacted additional legislative authority providing for the payment of claims, the United States shall hold harmless and indemnify Licensee and Customer and their respective directors, officers, servants, agents, subsidiaries, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims that Contractors and Subcontractors of the United States may have for Property Damage sustained by them, and for Bodily Injury or Property Damage sustained by their employees, resulting from Licensed Activities, to the extent that claims they would otherwise have for such damage or injury exceed the amount of insurance or demonstration of financial responsibility required under sections 440.9(c) and (e), respectively, of the Regulations.

6. Assurances Under 51 U.S.C. 50914(e)

Notwithstanding any provision of this Agreement to the contrary, Licensee shall hold harmless and indemnify the United States and its agencies, servants, agents, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims for Bodily Injury or Property Damage, resulting from Licensed Activities, regardless of fault, except to the extent that: (i) As provided in section 7(b) of this Agreement, claims result from willful misconduct of the United States or its agents; (ii) claims for Property Damage sustained by the United States or its Contractors and Subcontractors exceed the amount of insurance or demonstration of financial responsibility required under section 440.9(e) of the Regulations; (iii) claims by a Third Party for Bodily Injury or Property Damage exceed the amount of insurance or demonstration of financial responsibility required under section 440.9(c) of the Regulations, and do not exceed $1,500,000,000 (as adjusted for inflation after January 1, 1989) above such amount, and are payable pursuant to the provisions of 51 U.S.C. 50915 and section 440.19 of the Regulations; or (iv) Licensee has no liability for claims exceeding $1,500,000,000 (as adjusted for inflation after January 1, 1989) above the amount of insurance or demonstration of financial responsibility required under section 440.9(c) of the Regulations.

7. Miscellaneous

(a) Nothing contained herein shall be construed as a waiver or release by Licensee, Customer or the United States of any claim by an employee of the Licensee, Customer or the United States, respectively, including a member of the Armed Forces of the United States, for Bodily Injury or Property Damage, resulting from Licensed Activities.

(b) Notwithstanding any provision of this Agreement to the contrary, any waiver, release, assumption of responsibility or agreement to hold harmless and indemnify herein shall not apply to claims for Bodily Injury or Property Damage resulting from willful misconduct of any of the Parties, the Contractors and Subcontractors of any of the Parties, and in the case of Licensee and Customer and the Contractors and Subcontractors of each of them, the directors, officers, agents and employees of any of the foregoing, and in the case of the United States, its agents.

(c) This Agreement shall be governed by and construed in accordance with United States Federal law.

In witness whereof, the Parties to this Agreement have caused the Agreement to be duly executed by their respective duly authorized representatives as of the date written above.

Licensee
By: _____
Its: _____

Customer
By: _____
Its: _____

Federal Aviation Administration of the Department of Transportation on Behalf of the United States Government
By: _____
Its: _____

Associate Administrator for Commercial Space Transportation

Subpart B—Waiver of Claims and Assumption of Responsibility for Licensed Launch, Including Suborbital Launch, With More Than One Customer

This agreement is entered into this ____ day of _____, by and among [Licensee] (the "Licensee"); [List of Customers]; (with [List of Customers] hereinafter referred to in their individual capacity as "Customer"); and the Federal Aviation Administration of the Department of Transportation, on behalf of the United States Government (collectively, the "Parties"), to implement the provisions of section 440.17(c) of the Commercial Space Transportation Licensing Regulations, 14 CFR Ch. III (the "Regulations"). This agreement applies to the launch of [Payload] payload on a [Launch Vehicle] vehicle at [Location of Launch Site].

In consideration of the mutual releases and promises contained herein, the Parties hereby agree as follows:

1. Definitions

Contractors and Subcontractors means entities described in § 440.3 of the Regulations.

Customer means each above-named Customer.

License means License No. _____ issued on _____, by the Associate Administrator for Commercial Space Transportation, Federal Aviation Administration, Department of Transportation, to the Licensee, including all license orders issued in connection with the License.

Licensee means the Licensee and any transferee of the Licensee under 51 U.S.C. Subtitle V, ch. 509.

United States means the United States and its agencies involved in Licensed Activities. Except as otherwise defined herein, terms used in this Agreement and defined in 51 U.S.C. Subtitle V, ch. 509—Commercial Space Launch Activities, or in the Regulations, shall have the same meaning as contained in 51 U.S.C. Subtitle V, ch. 509, or the Regulations, respectively.

2. Waiver and Release of Claims

(a) Licensee hereby waives and releases claims it may have against each Customer and the United States, and against their respective Contractors and Subcontractors, for Property Damage it sustains and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault.

(b) Each Customer hereby waives and releases claims it may have against each other Customer, the Licensee and the United

States, and against their respective Contractors and Subcontractors, for Property Damage it sustains and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault.

(c) The United States hereby waives and releases claims it may have against Licensee and each Customer, and against their respective Contractors and Subcontractors, for Property Damage it sustains, and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault, to the extent that claims it would otherwise have for such damage or injury exceed the amount of insurance or demonstration of financial responsibility required under sections 440.9(c) and (e), respectively, of the Regulations.

3. Assumption of Responsibility

(a) Licensee and each Customer shall each be responsible for Property Damage it sustains and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault. Licensee and each Customer shall each hold harmless and indemnify each other, the United States, and the Contractors and Subcontractors of each Party, for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault.

(b) The United States shall be responsible for Property Damage it sustains, and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault, to the extent that claims it would otherwise have for such damage or injury exceed the amount of insurance or demonstration of financial responsibility required under sections 440.9(c) and (e), respectively, of the Regulations.

4. Extension of Assumption of Responsibility and Waiver and Release of Claims

(a) Licensee shall extend the requirements of the waiver and release of claims, and the assumption of responsibility, hold harmless, and indemnification, as set forth in paragraphs 2(a) and 3(a), respectively, to its Contractors and Subcontractors by requiring them to waive and release all claims they may have against each Customer and the United States, and against the respective Contractors and Subcontractors of each, and to agree to be responsible, for Property Damage they sustain and to be responsible, hold harmless and indemnify each Customer and the United States, and the respective Contractors and Subcontractors of each, for Bodily Injury or Property Damage sustained by their own employees, resulting from Licensed Activities, regardless of fault.

(b) Each Customer shall extend the requirements of the waiver and release of claims, and the assumption of responsibility, hold harmless, and indemnification, as set forth in paragraphs 2(b) and 3(a), respectively, to its Contractors and Subcontractors by requiring them to waive and release all claims they may have against Licensee, each other Customer and the United States, and against the respective Contractors and Subcontractors of each, and to agree to be responsible, for Property Damage they sustain and to be responsible, hold harmless and indemnify Licensee, each other Customer and the United States, and the respective Contractors and Subcontractors of each, for Bodily Injury or Property Damage sustained by their own employees, resulting from Licensed Activities, regardless of fault.

(c) The United States shall extend the requirements of the waiver and release of claims, and the assumption of responsibility as set forth in paragraphs 2(c) and 3(b), respectively, to its Contractors and Subcontractors by requiring them to waive and release all claims they may have against Licensee and each Customer, and against the respective Contractors and Subcontractors of each, and to agree to be responsible, for any Property Damage they sustain and for any Bodily Injury or Property Damage sustained by their own employees, resulting from Licensed Activities, regardless of fault, to the extent that claims they would otherwise have for such damage or injury exceed the amount of insurance or demonstration of financial responsibility required under sections 440.9(c) and (e), respectively, of the Regulations.

5. Indemnification

(a) Licensee shall hold harmless and indemnify each Customer and its directors, officers, servants, agents, subsidiaries, employees and assignees, or any of them, and the United States and its agencies, servants, agents, subsidiaries, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims that Licensee's Contractors and Subcontractors may have for Property Damage sustained by them and for Bodily Injury or Property Damage sustained by their employees, resulting from Licensed Activities.

(b) Each Customer shall hold harmless and indemnify each other Customer and its directors, officers, servants, agents, subsidiaries, employees and assignees, or any of them, and the Licensee and its directors, officers, servants, agents, subsidiaries, employees and assignees, or any of them, and the United States and its agencies, servants, agents, subsidiaries, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims that the first-named Customer's Contractors and Subcontractors may have for Property Damage sustained by them and for Bodily Injury or Property Damage sustained by their employees, resulting from Licensed Activities.

(c) To the extent provided in advance in an appropriations law or to the extent there is enacted additional legislative authority providing for the payment of claims, the United States shall hold harmless and indemnify Licensee and each Customer and their respective directors, officers, servants, agents, subsidiaries, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims that Contractors and Subcontractors of the United States may have for Property Damage sustained by them, and for Bodily Injury or Property Damage sustained by their employees, resulting from Licensed Activities, to the extent that claims they would otherwise have for such damage or injury exceed the amount of insurance or demonstration of financial responsibility required under sections 440.9(c) and (e), respectively, of the Regulations.

6. Assurances Under 51 U.S.C. 50914(e)

Notwithstanding any provision of this Agreement to the contrary, Licensee shall hold harmless and indemnify the United States and its agencies, servants, agents, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims for Bodily Injury or Property Damage, resulting from Licensed Activities, regardless of fault, except to the extent that: (i) As provided in section 7(b) of this Agreement, claims result from willful misconduct of the United States or its agents; (ii) claims for Property Damage sustained by the United States or its Contractors and Subcontractors exceed the amount of insurance or demonstration of financial responsibility required under section 440.9(e) of the Regulations; (iii) claims by a Third Party for Bodily Injury or Property Damage exceed the amount of insurance or demonstration of financial responsibility required under section 440.9(c) of the Regulations, and do not exceed $1,500,000,000 (as adjusted for inflation after January 1, 1989) above such amount, and are payable pursuant to the provisions of 51 U.S.C. 50915 and section 440.19 of the Regulations; or (iv) Licensee has no liability for claims exceeding $1,500,000,000 (as adjusted for inflation after January 1, 1989) above the amount of insurance or demonstration of financial responsibility required under section 440.9(c) of the Regulations.

7. Miscellaneous

(a) Nothing contained herein shall be construed as a waiver or release by Licensee, any Customer or the United States of any claim by an employee of the Licensee, any Customer or the United States, respectively, including a member of the Armed Forces of the United States, for Bodily Injury or Property Damage, resulting from Licensed Activities.

(b) Notwithstanding any provision of this Agreement to the contrary, any waiver, release, assumption of responsibility or agreement to hold harmless and indemnify herein shall not apply to claims for Bodily Injury or Property Damage resulting from willful misconduct of any of the Parties, the Contractors and Subcontractors of any of the Parties, and in the case of Licensee and each Customer and the Contractors and Subcontractors of each of them, the directors, officers, agents and employees of any of the foregoing, and in the case of the United States, its agents.

(c) References herein to Customer shall apply to, and be deemed to include, each such customer severally and not jointly.

(d) This Agreement shall be governed by and construed in accordance with United States Federal law.

In witness whereof, the Parties to this Agreement have caused the Agreement to be duly executed by their respective duly authorized representatives as of the date written above.

Licensee
By: _____
Its: _____
Customer 1
By: _____
Its: _____
[Signature lines for each additional customer]
Federal Aviation Administration of the Department of Transportation on Behalf of the United States Government
By: _____
Its: _____
Associate Administrator for Commercial Space Transportation

Part 2—Waiver of Claims and Assumption of Responsibility for Licensed Reentry

Subpart A—Waiver of Claims and Assumption of Responsibility for Licensed Reentry With One Customer

This Agreement is entered into this ____ day of _____, by and among [Licensee] (the "Licensee"), [Customer] (the "Customer"), and the Federal Aviation Administration of the Department of Transportation, on behalf of the United States Government (collectively, the "Parties"), to implement the provisions of § 440.17(c) of the Commercial Space Transportation Licensing Regulations, 14 CFR Ch. III (the "Regulations"). This agreement applies to the reentry of the [Payload] payload on a [Reentry Vehicle] vehicle.

In consideration of the mutual releases and promises contained herein, the Parties hereby agree as follows:

1. Definitions

Contractors and Subcontractors means entities described in § 440.3 of the Regulations.

Customer means the above-named Customer.

License means License No. ____ issued on _____, by the Associate Administrator for Commercial Space Transportation, Federal Aviation Administration, Department of Transportation, to the Licensee, including all license orders issued in connection with the License.

Licensee means the Licensee and any transferee of the Licensee under 51 U.S.C. Subtitle V, ch. 509.

United States means the United States and its agencies involved in Licensed Activities. Except as otherwise defined herein, terms used in this Agreement and defined in 51 U.S.C. Subtitle V, ch. 509—Commercial Space Launch Activities, or in the Regulations, shall have the same meaning as contained in 51 U.S.C. Subtitle V, ch. 509, or the Regulations, respectively.

2. Waiver and Release of Claims

(a) Licensee hereby waives and releases claims it may have against Customer and the United States, and against their respective Contractors and Subcontractors, for Property Damage it sustains and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault.

(b) Customer hereby waives and releases claims it may have against Licensee and the United States, and against their respective Contractors and Subcontractors, for Property Damage it sustains and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault.

(c) The United States hereby waives and releases claims it may have against Licensee and Customer, and against their respective Contractors and Subcontractors, for Property Damage it sustains, and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault, to the extent that claims it would otherwise have for such damage or injury exceed the amount of insurance or demonstration of financial responsibility required under sections 440.9(c) and (e) of the Regulations.

3. Assumption of Responsibility

(a) Licensee and Customer shall each be responsible for Property Damage it sustains and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault. Licensee and Customer shall each hold harmless and indemnify each other, the United States, and the Contractors and Subcontractors of each Party, for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault.

(b) The United States shall be responsible for Property Damage it sustains, and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault, to the extent that claims it would otherwise have for such damage or injury exceed the amount of insurance or demonstration of financial responsibility required under §§ 440.9(c) and (e) of the Regulations.

4. Extension of Assumption of Responsibility and Waiver and Release of Claims

(a) Licensee shall extend the requirements of the waiver and release of claims, and the assumption of responsibility, hold harmless, and indemnification, as set forth in paragraphs 2(a) and 3(a), respectively, to its Contractors and Subcontractors by requiring them to waive and release all claims they may have against Customer and the United States, and against the respective Contractors and Subcontractors of each, and to agree to be responsible, for Property Damage they sustain and to be responsible, hold harmless and indemnify Customer and the United States, and the respective Contractors and Subcontractors of each, for Bodily Injury or Property Damage sustained by their own employees, resulting from Licensed Activities, regardless of fault.

(b) Customer shall extend the requirements of the waiver and release of claims, and the assumption of responsibility, hold harmless, and indemnification, as set forth in paragraphs 2(b) and 3(a), respectively, to its Contractors and Subcontractors by requiring them to waive and release all claims they may have against Licensee and the United States, and against the respective Contractors and Subcontractors of each, and to agree to be responsible, for Property Damage they sustain and to be responsible, hold harmless and indemnify Licensee and the United States, and the respective Contractors and Subcontractors of each, for Bodily Injury or Property Damage sustained by their own employees, resulting from Licensed Activities, regardless of fault.

(c) The United States shall extend the requirements of the waiver and release of claims, and the assumption of responsibility as set forth in paragraphs 2(c) and 3(b), respectively, to its Contractors and Subcontractors by requiring them to waive and release all claims they may have against Licensee and Customer, and against the respective Contractors and Subcontractors of each, and to agree to be responsible, for any Property Damage they sustain and for any Bodily Injury or Property Damage sustained by their own employees, resulting from Licensed Activities, regardless of fault, to the extent that claims they would otherwise have for such damage or injury exceed the amount of insurance or demonstration of financial responsibility required under §§ 440.9(c) and (e) of the Regulations.

5. Indemnification

(a) Licensee shall hold harmless and indemnify Customer and its directors, officers, servants, agents, subsidiaries, employees and assignees, or any of them, and the United States and its agencies, servants, agents, subsidiaries, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims that Licensee's Contractors and Subcontractors may have for Property Damage sustained by them and for Bodily Injury or Property Damage sustained by their employees, resulting from Licensed Activities.

(b) Customer shall hold harmless and indemnify Licensee and its directors, officers, servants, agents, subsidiaries, employees and assignees, or any of them, and the United States and its agencies, servants, agents, subsidiaries, employees or assignees, or any of them, from and against liability, loss or damage arising out of claims that Customer's Contractors and Subcontractors may have for Property Damage sustained by them and for Bodily Injury or Property Damage sustained by their employees, resulting from Licensed Activities.

(c) To the extent provided in advance in an appropriations law or to the extent there is enacted additional legislative authority providing for the payment of claims, the United States shall hold harmless and indemnify Licensee and Customer and their respective directors, officers, servants, agents, subsidiaries, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims that Contractors and Subcontractors of the United States may have for Property Damage sustained by them, and for Bodily Injury or Property Damage sustained by their employees, resulting from Licensed Activities, to the extent that claims they would otherwise have for such damage or injury exceed the amount of insurance or demonstration of financial responsibility required under §§ 440.9(c) and (e) of the Regulations.

6. Assurances Under 51 U.S.C. 50914(e)

Notwithstanding any provision of this Agreement to the contrary, Licensee shall hold harmless and indemnify the United States and its agencies, servants, agents,

employees and assignees, or any of them, from and against liability, loss or damage arising out of claims for Bodily Injury or Property Damage, resulting from Licensed Activities, regardless of fault, except to the extent that: (i) As provided in section 7(b) of this Agreement, claims result from willful misconduct of the United States or its agents; (ii) claims for Property Damage sustained by the United States or its Contractors and Subcontractors exceed the amount of insurance or demonstration of financial responsibility required under § 440.9(e) of the Regulations; (iii) claims by a Third Party for Bodily Injury or Property Damage exceed the amount of insurance or demonstration of financial responsibility required under § 440.9(c) of the Regulations, and do not exceed $1,500,000,000 (as adjusted for inflation after January 1, 1989) above such amount, and are payable pursuant to the provisions of 51 U.S.C. 50915 and § 440.19 of the Regulations; or (iv) Licensee has no liability for claims exceeding $1,500,000,000 (as adjusted for inflation after January 1, 1989) above the amount of insurance or demonstration of financial responsibility required under § 440.9(c) of the Regulations.

7. Miscellaneous

(a) Nothing contained herein shall be construed as a waiver or release by Licensee, Customer or the United States of any claim by an employee of the Licensee, Customer or the United States, respectively, including a member of the Armed Forces of the United States, for Bodily Injury or Property Damage, resulting from Licensed Activities.

(b) Notwithstanding any provision of this Agreement to the contrary, any waiver, release, assumption of responsibility or agreement to hold harmless and indemnify herein shall not apply to claims for Bodily Injury or Property Damage resulting from willful misconduct of any of the Parties, the Contractors and Subcontractors of any of the Parties, and in the case of Licensee and Customer and the Contractors and Subcontractors of each of them, the directors, officers, agents and employees of any of the foregoing, and in the case of the United States, its agents.

(c) This Agreement shall be governed by and construed in accordance with United States Federal law.

In Witness Whereof, the Parties to this Agreement have caused the Agreement to be duly executed by their respective duly authorized representatives as of the date written above.

Licensee

By: _____

Its: _____

Customer

By: _____

Its: _____

Federal Aviation Administration of the Department of Transportation on Behalf of the United States Government

By: _____

Its: _____

Associate Administrator for Commercial Space Transportation

Subpart B—Waiver of Claims and Assumption of Responsibility for Licensed Reentry With More Than One Customer

This agreement is entered into this ____ day of _____, by and among [Licensee] (the "Licensee"); [List of Customers] (with [List of Customers] hereinafter referred to in their individual capacity as "Customer"); and the Federal Aviation Administration of the Department of Transportation, on behalf of the United States Government (collectively, the "Parties"), to implement the provisions of section 440.17(c) of the Commercial Space Transportation Licensing Regulations, 14 CFR Ch. III (the "Regulations"). This agreement applies to the reentry of [Payload] payload on a [Reentry Vehicle] vehicle.

In consideration of the mutual releases and promises contained herein, the Parties hereby agree as follows:

1. Definitions

Contractors and Subcontractors means entities described in § 440.3 of the Regulations.

Customer means each above-named Customer.

License means License No. ____ issued on _____, by the Associate Administrator for Commercial Space Transportation, Federal Aviation Administration, Department of Transportation, to the Licensee, including all license orders issued in connection with the License.

Licensee means the Licensee and any transferee of the Licensee under 51 U.S.C. Subtitle V, ch. 509.

United States means the United States and its agencies involved in Licensed Activities. Except as otherwise defined herein, terms used in this Agreement and defined in 51 U.S.C. Subtitle V, ch. 509—Commercial Space Launch Activities, or in the Regulations, shall have the same meaning as contained in 51 U.S.C. Subtitle V, ch. 509, or the Regulations, respectively.

2. Waiver and Release of Claims

(a) Licensee hereby waives and releases claims it may have against each Customer and the United States, and against their respective Contractors and Subcontractors, for Property Damage it sustains and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault.

(b) Each Customer hereby waives and releases claims it may have against each other Customer, the Licensee and the United States, and against their respective Contractors and Subcontractors, for Property Damage it sustains and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault.

(c) The United States hereby waives and releases claims it may have against Licensee and each Customer, and against their respective Contractors and Subcontractors, for Property Damage it sustains, and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault, to the extent that claims it would otherwise have for such damage or injury exceed the amount of insurance or demonstration of financial responsibility required under sections 440.9(c) and (e), respectively, of the Regulations.

3. Assumption of Responsibility

(a) Licensee and each Customer shall each be responsible for Property Damage it sustains and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault. Licensee and each Customer shall each hold harmless and indemnify each other, the United States, and the Contractors and Subcontractors of each Party, for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault.

(b) The United States shall be responsible for Property Damage it sustains, and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault, to the extent that claims it would otherwise have for such damage or injury exceed the amount of insurance or demonstration of financial responsibility required under sections 440.9(c) and (e), respectively, of the Regulations.

4. Extension of Assumption of Responsibility and Waiver and Release of Claims

(a) Licensee shall extend the requirements of the waiver and release of claims, and the assumption of responsibility, hold harmless, and indemnification, as set forth in paragraphs 2(a) and 3(a), respectively, to its Contractors and Subcontractors by requiring them to waive and release all claims they may have against each Customer and the United States, and against the respective Contractors and Subcontractors of each, and to agree to be responsible, for Property Damage they sustain and to be responsible, hold harmless and indemnify each Customer and the United States, and the respective Contractors and Subcontractors of each, for Bodily Injury or Property Damage sustained by their own employees, resulting from Licensed Activities, regardless of fault.

(b) Each Customer shall extend the requirements of the waiver and release of claims, and the assumption of responsibility, hold harmless, and indemnification, as set forth in paragraphs 2(b) and 3(a), respectively, to its Contractors and Subcontractors by requiring them to waive and release all claims they may have against Licensee, each other Customer and the United States, and against the respective Contractors and Subcontractors of each, and to agree to be responsible, for Property Damage they sustain and to be responsible, hold harmless and indemnify Licensee, each other Customer and the United States, and the respective Contractors and Subcontractors of each, for Bodily Injury or Property Damage sustained by their own employees, resulting from Licensed Activities, regardless of fault.

(c) The United States shall extend the requirements of the waiver and release of claims, and the assumption of responsibility as set forth in paragraphs 2(c) and 3(b), respectively, to its Contractors and Subcontractors by requiring them to waive and release all claims they may have against Licensee and each Customer, and against the respective Contractors and Subcontractors of

each, and to agree to be responsible, for any Property Damage they sustain and for any Bodily Injury or Property Damage sustained by their own employees, resulting from Licensed Activities, regardless of fault, to the extent that claims they would otherwise have for such damage or injury exceed the amount of insurance or demonstration of financial responsibility required under sections 440.9(c) and (e), respectively, of the Regulations.

5. Indemnification

(a) Licensee shall hold harmless and indemnify each Customer and its directors, officers, servants, agents, subsidiaries, employees and assignees, or any of them, and the United States and its agencies, servants, agents, subsidiaries, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims that Licensee's Contractors and Subcontractors may have for Property Damage sustained by them and for Bodily Injury or Property Damage sustained by their employees, resulting from Licensed Activities.

(b) Each Customer shall hold harmless and indemnify each other Customer and its directors, officers, servants, agents, subsidiaries, employees and assignees, or any of them, and the Licensee and its directors, officers, servants, agents, subsidiaries, employees and assignees, or any of them, and the United States and its agencies, servants, agents, subsidiaries, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims that the first-named Customer's Contractors and Subcontractors may have for Property Damage sustained by them and for Bodily Injury or Property Damage sustained by their employees, resulting from Licensed Activities.

(c) To the extent provided in advance in an appropriations law or to the extent there is enacted additional legislative authority providing for the payment of claims, the United States shall hold harmless and indemnify Licensee and each Customer and their respective directors, officers, servants, agents, subsidiaries, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims that Contractors and Subcontractors of the United States may have for Property Damage sustained by them, and for Bodily Injury or Property Damage sustained by their employees, resulting from Licensed Activities, to the extent that claims they would otherwise have for such damage or injury exceed the amount of insurance or demonstration of financial responsibility required under sections 440.9(c) and (e), respectively, of the Regulations.

6. Assurances Under 51 U.S.C. 50914(e)

Notwithstanding any provision of this Agreement to the contrary, Licensee shall hold harmless and indemnify the United States and its agencies, servants, agents, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims for Bodily Injury or Property Damage, resulting from Licensed Activities, regardless of fault, except to the extent that: (i) As provided in section 7(b) of this Agreement, claims result from willful misconduct of the United States or its agents; (ii) claims for Property Damage sustained by the United States or its Contractors and Subcontractors exceed the amount of insurance or demonstration of financial responsibility required under section 440.9(e) of the Regulations; (iii) claims by a Third Party for Bodily Injury or Property Damage exceed the amount of insurance or demonstration of financial responsibility required under section 440.9(c) of the Regulations, and do not exceed $1,500,000,000 (as adjusted for inflation after January 1, 1989) above such amount, and are payable pursuant to the provisions of 51 U.S.C. 50915 and section 440.19 of the Regulations; or (iv) Licensee has no liability for claims exceeding $1,500,000,000 (as adjusted for inflation after January 1, 1989) above the amount of insurance or demonstration of financial responsibility required under section 440.9(c) of the Regulations.

7. Miscellaneous

(a) Nothing contained herein shall be construed as a waiver or release by Licensee, any Customer or the United States of any claim by an employee of the Licensee, any Customer or the United States, respectively, including a member of the Armed Forces of the United States, for Bodily Injury or Property Damage, resulting from Licensed Activities.

(b) Notwithstanding any provision of this Agreement to the contrary, any waiver, release, assumption of responsibility or agreement to hold harmless and indemnify herein shall not apply to claims for Bodily Injury or Property Damage resulting from willful misconduct of any of the Parties, the Contractors and Subcontractors of any of the Parties, and in the case of Licensee and each Customer and the Contractors and Subcontractors of each of them, the directors, officers, agents and employees of any of the foregoing, and in the case of the United States, its agents.

(c) References herein to Customer shall apply to, and be deemed to include, each such customer severally and not jointly.

(d) This Agreement shall be governed by and construed in accordance with United States Federal law.

In witness whereof, the Parties to this Agreement have caused the Agreement to be duly executed by their respective duly authorized representatives as of the date written above.

Licensee
By: _____
Its: _____

Customer 1
By: _____
Its: _____
[Signature lines for each additional customer]

Federal Aviation Administration of the Department of Transportation on Behalf of the United States Government
By: _____
Its: _____
Associate Administrator for Commercial Space Transportation

■ 4. Revise Appendix C to part 440 to read as follows:

Appendix C to Part 440—Agreement for Waiver of Claims and Assumption of Responsibility for Permitted Activities

Part 1—Waiver of Claims and Assumption of Responsibility for Permitted Activities With One Customer

This agreement is entered into this ____ day of _____, by and among [Permittee] (the "Permittee"), [Customer] (the "Customer") and the Federal Aviation Administration of the Department of Transportation, on behalf of the United States Government (collectively, the "Parties"), to implement the provisions of section 440.17(c) of the Commercial Space Transportation Licensing Regulations, 14 CFR Ch. III (the "Regulations"). This agreement applies to [describe permitted activity]. In consideration of the mutual releases and promises contained herein, the Parties hereby agree as follows:

1. Definitions

Customer means the above-named Customer.

Permit means Permit No. ____ issued on _____, by the Associate Administrator for Commercial Space Transportation, Federal Aviation Administration, Department of Transportation, to the Permittee, including all permit orders issued in connection with the Permit.

Permittee means the holder of the Permit issued under 51 U.S.C. Subtitle V, ch. 509.

United States means the United States and its agencies involved in Permitted Activities.

Except as otherwise defined herein, terms used in this Agreement and defined in 51 U.S.C. Subtitle V, ch. 509—Commercial Space Launch Activities, or in the Regulations, shall have the same meaning as contained in 51 U.S.C. Subtitle V, ch. 509, or the Regulations, respectively.

2. Waiver and Release of Claims

(a) Permittee hereby waives and releases claims it may have against Customer and the United States, and against their respective Contractors and Subcontractors, for Property Damage it sustains and for Bodily Injury or Property Damage sustained by its own employees, resulting from Permitted Activities, regardless of fault.

(b) Customer hereby waives and releases claims it may have against Permittee and the United States, and against their respective Contractors and Subcontractors, for Property Damage it sustains and for Bodily Injury or Property Damage sustained by its own employees, resulting from Permitted Activities, regardless of fault.

(c) The United States hereby waives and releases claims it may have against Permittee and Customer, and against their respective Contractors and Subcontractors, for Property Damage it sustains resulting from Permitted Activities, regardless of fault, to the extent that claims it would otherwise have for such damage exceed the amount of insurance or demonstration of financial responsibility required under section 440.9(e) of the Regulations.

3. Assumption of Responsibility

(a) Permittee and Customer shall each be responsible for Property Damage it sustains

and for Bodily Injury or Property Damage sustained by its own employees, resulting from Permitted Activities, regardless of fault. Permittee and Customer shall each hold harmless and indemnify each other, the United States, and the Contractors and Subcontractors of each Party, for Bodily Injury or Property Damage sustained by its own employees, resulting from Permitted Activities, regardless of fault.

(b) The United States shall be responsible for Property Damage it sustains, resulting from Permitted Activities, regardless of fault, to the extent that claims it would otherwise have for such damage exceed the amount of insurance or demonstration of financial responsibility required under section 440.9(e) of the Regulations.

4. Extension of Assumption of Responsibility and Waiver and Release of Claims

(a) Permittee shall extend the requirements of the waiver and release of claims, and the assumption of responsibility, hold harmless, and indemnification, as set forth in paragraphs 2(a) and 3(a), respectively, to its Contractors and Subcontractors by requiring them to waive and release all claims they may have against Customer and the United States, and against the respective Contractors and Subcontractors of each, and to agree to be responsible, for Property Damage they sustain and to be responsible, hold harmless and indemnify Customer and the United States, and the respective Contractors and Subcontractors of each, for Bodily Injury or Property Damage sustained by their own employees, resulting from Permitted Activities, regardless of fault.

(b) Customer shall extend the requirements of the waiver and release of claims, and the assumption of responsibility, hold harmless, and indemnification, as set forth in paragraphs 2(b) and 3(a), respectively, to its Contractors and Subcontractors by requiring them to waive and release all claims they may have against Permittee and the United States, and against the respective Contractors and Subcontractors of each, and to agree to be responsible, for Property Damage they sustain and to be responsible, hold harmless and indemnify Permittee and the United States, and the respective Contractors and Subcontractors of each, for Bodily Injury or Property Damage sustained by their own employees, resulting from Permitted Activities, regardless of fault.

(c) The United States shall extend the requirements of the waiver and release of claims, and the assumption of responsibility as set forth in paragraphs 2(c) and 3(b), respectively, to its Contractors and Subcontractors by requiring them to waive and release all claims they may have against Permittee and Customer, and against the respective Contractors and Subcontractors of each, and to agree to be responsible, for any Property Damage they sustain, resulting from Permitted Activities, regardless of fault, to the extent that claims they would otherwise have for such damage exceed the amount of insurance or demonstration of financial responsibility required under section 440.9(e) of the Regulations.

5. Indemnification

(a) Permittee shall hold harmless and indemnify Customer and its directors, officers, servants, agents, subsidiaries, employees and assignees, or any of them, and the United States and its agencies, servants, agents, subsidiaries, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims that Permittee's Contractors and Subcontractors may have for Property Damage sustained by them and for Bodily Injury or Property Damage sustained by their employees, resulting from Permitted Activities.

(b) Customer shall hold harmless and indemnify Permittee and its directors, officers, servants, agents, subsidiaries, employees and assignees, or any of them, and the United States and its agencies, servants, agents, subsidiaries, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims that Customer's Contractors and Subcontractors, may have for Property Damage sustained by them and for Bodily Injury or Property Damage sustained by their employees, resulting from Permitted Activities.

6. Assurances Under 51 U.S.C. 50914(e)

Notwithstanding any provision of this Agreement to the contrary, Permittee shall hold harmless and indemnify the United States and its agencies, servants, agents, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims for Bodily Injury or Property Damage, resulting from Permitted Activities, regardless of fault, except to the extent that it is provided in section 7(b) of this Agreement, except to the extent that claims (i) result from willful misconduct of the United States or its agents and (ii) for Property Damage sustained by the United States or its Contractors and Subcontractors exceed the amount of insurance or demonstration of financial responsibility required under section 440.9(e) of the Regulations.

7. Miscellaneous

(a) Nothing contained herein shall be construed as a waiver or release by Permittee, Customer or the United States of any claim by an employee of the Permittee, Customer or the United States, respectively, including a member of the Armed Forces of the United States, for Bodily Injury or Property Damage, resulting from Permitted Activities.

(b) Notwithstanding any provision of this Agreement to the contrary, any waiver, release, assumption of responsibility or agreement to hold harmless and indemnify herein shall not apply to claims for Bodily Injury or Property Damage resulting from willful misconduct of any of the Parties, the Contractors and Subcontractors of any of the Parties, and in the case of Permittee and Customer and the Contractors and Subcontractors of each of them, the directors, officers, agents and employees of any of the foregoing, and in the case of the United States, its agents.

(c) This Agreement shall be governed by and construed in accordance with United States Federal law.

In witness whereof, the Parties to this Agreement have caused the Agreement to be duly executed by their respective duly authorized representatives as of the date written above.

Permittee
By: _____
Its: _____

Customer
By: _____
Its: _____

Federal Aviation Administration of the Department of Transportation on Behalf of the United States Government
By: _____
Its: _____

Associate Administrator for Commercial Space Transportation

Part 2—Waiver of Claims and Assumption of Responsibility for Permitted Activities With More Than One Customer

This agreement is entered into this ____ day of _____, by and among [Permittee] (the "Permittee"); [List of Customers]; (with [List of Customers] hereinafter referred to in their individual capacity as "Customer"); and the Federal Aviation Administration of the Department of Transportation, on behalf of the United States Government (collectively, the "Parties"), to implement the provisions of section 440.17(c) of the Commercial Space Transportation Licensing Regulations, 14 CFR Ch. III (the "Regulations"). This agreement applies to [describe permitted activity].

In consideration of the mutual releases and promises contained herein, the Parties hereby agree as follows:

1. Definitions

Customer means each above-named Customer.

Permit means Permit No. _____ issued on _____, by the Associate Administrator for Commercial Space Transportation, Federal Aviation Administration, Department of Transportation, to the Permittee, including all permit orders issued in connection with the Permit.

Permittee means the holder of the Permit issued under 51 U.S.C. Subtitle V, ch. 509.

United States means the United States and its agencies involved in Permitted Activities.

Except as otherwise defined herein, terms used in this Agreement and defined in 51 U.S.C. Subtitle V, ch. 509—Commercial Space Launch Activities, or in the Regulations, shall have the same meaning as contained in 51 U.S.C. Subtitle V, ch. 509, or the Regulations, respectively.

2. Waiver and Release of Claims

(a) Permittee hereby waives and releases claims it may have against each Customer and the United States, and against their respective Contractors and Subcontractors, for Property Damage it sustains and for Bodily Injury or Property Damage sustained by its own employees, resulting from Permitted Activities, regardless of fault.

(b) Each Customer hereby waives and releases claims it may have against each other Customer, the Permittee and the United

States, and against their respective Contractors and Subcontractors, for Property Damage it sustains and for Bodily Injury or Property Damage sustained by its own employees, resulting from Permitted Activities, regardless of fault.

(c) The United States hereby waives and releases claims it may have against Permittee and each Customer, and against their respective Contractors and Subcontractors, for Property Damage it sustains resulting from Permitted Activities, regardless of fault, to the extent that claims it would otherwise have for such damage or injury exceed the amount of insurance or demonstration of financial responsibility required under section 440.9(e) of the Regulations.

3. Assumption of Responsibility

(a) Permittee and each Customer shall each be responsible for Property Damage it sustains and for Bodily Injury or Property Damage sustained by its own employees, resulting from Permitted Activities, regardless of fault. Permittee and each Customer shall each hold harmless and indemnify each other, the United States, and the Contractors and Subcontractors of each Party, for Bodily Injury or Property Damage sustained by its own employees, resulting from Permitted Activities, regardless of fault.

(b) The United States shall be responsible for Property Damage it sustains, resulting from Permitted Activities, regardless of fault, to the extent that claims it would otherwise have for such damage or injury exceed the amount of insurance or demonstration of financial responsibility required under section 440.9(e) of the Regulations.

4. Extension of Assumption of Responsibility and Waiver and Release of Claims

(a) Permittee shall extend the requirements of the waiver and release of claims, and the assumption of responsibility, hold harmless, and indemnification, as set forth in paragraphs 2(a) and 3(a), respectively, to its Contractors and Subcontractors by requiring them to waive and release all claims they may have against each Customer and the United States, and against the respective Contractors and Subcontractors of each, and to agree to be responsible, for Property Damage they sustain and to be responsible, hold harmless and indemnify each Customer and the United States, and the respective Contractors and Subcontractors of each, for Bodily Injury or Property Damage sustained by their own employees, resulting from Permitted Activities, regardless of fault.

(b) Each Customer shall extend the requirements of the waiver and release of claims, and the assumption of responsibility, hold harmless, and indemnification, as set forth in paragraphs 2(b) and 3(a), respectively, to its Contractors and Subcontractors by requiring them to waive and release all claims they may have against Permittee, each other Customer and the United States, and against the respective Contractors and Subcontractors of each, and to agree to be responsible, for Property Damage they sustain and to be responsible, hold harmless and indemnify Permittee, each other Customer and the United States, and the respective Contractors and Subcontractors of each, for Bodily Injury or Property Damage sustained by their own employees, resulting from Permitted Activities, regardless of fault.

(c) The United States shall extend the requirements of the waiver and release of claims, and the assumption of responsibility as set forth in paragraphs 2(c) and 3(b), respectively, to its Contractors and Subcontractors by requiring them to waive and release all claims they may have against Permittee and each Customer, and against the respective Contractors and Subcontractors of each, and to agree to be responsible, for any Property Damage they sustain and for any Bodily Injury or Property Damage sustained by their own employees, resulting from Permitted Activities, regardless of fault, to the extent that claims they would otherwise have for such damage or injury exceed the amount of insurance or demonstration of financial responsibility required under section 440.9(e) of the Regulations.

5. Indemnification

(a) Permittee shall hold harmless and indemnify each Customer and its directors, officers, servants, agents, subsidiaries, employees and assignees, or any of them, and the United States and its agencies, servants, agents, subsidiaries, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims that Permittee's Contractors and Subcontractors may have for Property Damage sustained by them and for Bodily Injury or Property Damage sustained by their employees, resulting from Permitted Activities.

(b) Each Customer shall hold harmless and indemnify each other Customer and its directors, officers, servants, agents, subsidiaries, employees and assignees, or any of them, and the Permittee and its directors, officers, servants, agents, subsidiaries, employees and assignees, or any of them, and the United States and its agencies, servants, agents, subsidiaries, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims that the first-named Customer's Contractors and Subcontractors may have for Property Damage sustained by them and for Bodily Injury or Property Damage sustained by their employees, resulting from Permitted Activities.

6. Assurances Under 51 U.S.C. 50914(e)

Notwithstanding any provision of this Agreement to the contrary, Permittee shall hold harmless and indemnify the United States and its agencies, servants, agents, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims for Bodily Injury or Property Damage, resulting from Permitted Activities, regardless of fault, except to the extent that it is provided in section 7(b) of this Agreement, except to the extent that claims: (i) Result from willful misconduct of the United States or its agents and (ii) for Property Damage sustained by the United States or its Contractors and Subcontractors exceed the amount of insurance or demonstration of financial responsibility required under section 440.9(e) of the Regulations.

7. Miscellaneous

(a) Nothing contained herein shall be construed as a waiver or release by Permittee, any Customer or the United States of any claim by an employee of the Permittee, any Customer or the United States, respectively, including a member of the Armed Forces of the United States, for Bodily Injury or Property Damage, resulting from Permitted Activities.

(b) Notwithstanding any provision of this Agreement to the contrary, any waiver, release, assumption of responsibility or agreement to hold harmless and indemnify herein shall not apply to claims for Bodily Injury or Property Damage resulting from willful misconduct of any of the Parties, the Contractors and Subcontractors of any of the Parties, and in the case of Permittee and each Customer and the Contractors and Subcontractors of each of them, the directors, officers, agents and employees of any of the foregoing, and in the case of the United States, its agents.

(c) References herein to Customer shall apply to, and be deemed to include, each such customer severally and not jointly.

(d) This Agreement shall be governed by and construed in accordance with United States Federal law.

In witness whereof, the Parties to this Agreement have caused the Agreement to be duly executed by their respective duly authorized representatives as of the date written above.

Permittee
By: _____
Its: _____

Customer 1
By: _____
Its: _____

[Signature lines for each additional customer]

Federal Aviation Administration of the Department of Transportation on Behalf of the United States Government
By: _____
Its: _____

Issued in Washington, DC, on February 9, 2011.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

[FR Doc. 2011–3313 Filed 2–14–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 880

[Docket No. FDA–2008–N–0106] (formerly Docket No. 2007N–0484)

Medical Devices; Medical Device Data Systems

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA), on its own

initiative, is issuing a final rule to reclassify Medical Device Data Systems (MDDSs) from class III (premarket approval) into class I (general controls). MDDS devices are intended to transfer, store, convert from one format to another according to preset specifications, or display medical device data. MDDSs perform all intended functions without controlling or altering the function or parameters of any connected medical devices. An MDDS is not intended to be used in connection with active patient monitoring. FDA is exempting MDDSs from the premarket notification requirements.

DATES: This rule is effective April 18, 2011. See section IV of this document for more information.

FOR FURTHER INFORMATION CONTACT: Anthony D. Watson, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2516, Silver Spring, MD 20993–0002, 301–796–6296.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
A. Medical Device Data System
B. Statutory Framework
C. Regulatory History of MDDS
II. Overview of This Rulemaking
III. Comments and Responses
A. Classification and Exemption of MDDS
B. Scope of MDDS Classification
C. Clarification of Terms
D. Analysis of Burdens and Regulatory Requirements
IV. Implementation
V. Environmental Impact
VI. Analysis of Impact
A. Background
B. Comments and Responses
C. Cost of the Final Rule
D. Registration and Listing
E. Current Good Manufacturing Practices (CGMP)/QS Regulation/MDR Compliance
F. Premarket Notification
VII. Federalism
VIII. Paperwork Reduction Act of 1995

I. Background

A. Medical Device Data System

An MDDS is a device that is intended to transfer, store, convert from one format to another according to preset specifications, or display medical device data. An MDDS acts only as the mechanism by which medical device data can be transferred, stored, converted, or displayed. An MDDS does not modify the data or modify the display of the data. An MDDS by itself does not control the functions or parameters of any other medical device. An MDDS can only control its own functionality. This device is not intended to provide or be used in connection with active patient monitoring. Any product that is intended for a use beyond the uses (or functions) identified in this final classification rule is not an MDDS and is not addressed by this rule.

B. Statutory Framework

The Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 301 *et seq.*) establishes a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) establishes three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval). General controls include requirements for registration, listing, adverse event reporting, and good manufacturing practice (quality system requirements) (21 U.S.C. 360c(a)(1)(A)). Special controls are controls that, in addition to general controls, are applicable to a class II device to help provide reasonable assurance of that device's safety and effectiveness (21 U.S.C. 360c(a)(1)(B)).

Devices that were not in commercial distribution prior to May 28, 1976, generally referred to as postamendment devices, are classified automatically by statute into class III, without any FDA rulemaking (21 U.S.C. 360c(f)). Postamendment devices that are automatically classified into class III require premarket approval prior to marketing the device, unless the device is reclassified into class I or II.

Reclassification of postamendment devices into class I or class II is governed by section 513(f)(3) of the FD&C Act, formerly section 513(f)(2) of the FD&C Act. This section provides that FDA may initiate the reclassification of a device classified into class III under section 513(f)(1) of the FD&C Act, or the manufacturer or importer of a device may petition FDA for the issuance of an order classifying the device in class I or class II. To change the classification of the device, it is necessary that the proposed new classification have sufficient regulatory controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use. A medical device reclassified into class I or class II may require the submission of a premarket notification to assure safety and effectiveness, unless the device is exempt.

Premarket notifications are not required for certain class I and class II medical devices. Under section 510(l) of the FD&C Act (21 U.S.C. 360(l)), a class I device is exempt from the premarket notification requirements unless the device is intended for a use which is of substantial importance in preventing impairment of human health or it presents a potential unreasonable risk of illness or injury. FDA refers to these criteria as "reserved criteria." An exemption permits manufacturers to introduce into commercial distribution generic types of devices without first submitting a premarket notification to FDA.

C. Regulatory History of MDDS

Products that are built with, or consist of, computer and/or software components are subject to regulation as devices if they meet the definition of a device contained in section 201(h) of the FD&C Act (21 U.S.C. 321(h)). In 1989, FDA published a draft guidance document, "FDA Policy for the Regulation of Computer Products," that explained how FDA planned to determine whether a computer-based product and/or software-based product is a device, and how FDA intended to regulate this device type. The document became known as the "Draft Software Policy." Since 1989, however, the use of computer products and software products as medical devices has grown exponentially. Consequently, FDA determined that because of the history, complexity, and diversity of computer systems and controlling software, it would be impractical to adopt one "software" or "computer" policy to address all computer and software medical devices. The Draft Software Policy was withdrawn, official notice of which appeared in the **Federal Register** on January 5, 2005 (70 FR 824 at 890).

An appropriate regulatory approach should depend primarily upon the risk the device poses to the patient should the device (software or hardware) fail to perform in accordance with its specifications. This principle, along with FDA's examination of modern medical device networks and computer infrastructures, informs this reclassification of a category of postamendment computer and software devices that can be regulated under a single classification. This medical device has been named a "Medical Device Data System" or "MDDS." Because an MDDS does not provide new or unique algorithms or functions, FDA has determined that applying general controls, such as the Quality System regulation (QS regulation or QS requirements) (part 820 (21 CFR part 820)), to the design and development of these devices will provide sufficient

regulatory control to mitigate any associated risks. Accordingly, FDA is classifying the MDDS into class I.

II. Overview of This Rulemaking

In the **Federal Register** of February 8, 2008 (73 FR 7498), FDA issued a proposed rule (the proposed rule) to reclassify, upon its own initiative, MDDSs from class III (subject to premarket approval), to class I (subject to general controls). Further, in accordance with section 510(l) of the FD&C Act, the proposed rule set forth that an MDDS intended for use only by a health care professional and that does not perform irreversible data compression would be exempt from the premarket notification requirements, subject to the limitations on exemption in § 880.9 (21 CFR 880.9). Under the proposed rule, if an MDDS were indicated for use by anyone other than a health care professional, or performed irreversible data compression, a premarket notification would be required.

This regulation classifies as class I MDDS only data systems with specific intended uses and functions. Those device data systems that include any uses beyond, or that are for intended uses different from, those identified for an MDDS will remain class III devices. FDA has determined that MDDSs can be regulated as class I devices because general controls provide a reasonable assurance of safety and effectiveness for this device type. In making this determination, FDA has considered that the risks associated with MDDSs are generally from inadequate software quality and incorrect functioning of the device itself. These failures can lead to inaccurate or incomplete data transfer, storage, conversion according to preset specifications, or display of medical device data, resulting in incorrect treatment or diagnosis of the patient. Based on FDA's knowledge of, and experience with, MDDSs, FDA has determined that general controls will provide a reasonable assurance of safety and effectiveness of MDDSs, such that special controls and premarket approval are not necessary to provide such assurance.

The QS regulation is particularly important in our determination that general controls will provide a reasonable assurance of safety and effectiveness for the device. The QS regulation governs the methods used in, and the facilities and controls used for, the design, manufacture, packaging, labeling, storage, installation, and servicing of devices and is intended to ensure that finished devices will be safe and effective (§ 820.1). Accordingly, as discussed in the proposed rule (73 FR 7498 at 7500 and 7501), the application of the QS regulation significantly reduces the risks of inadequate design and unreliable performance associated with an MDDS.

Specifically, the design control provisions (§ 820.30) that apply to the design of class I devices automated with computer software, especially the risk analysis required under § 820.30(g), will ensure that specified design requirements are met, thereby minimizing the risk of an MDDS inaccurately transferring, storing, converting according to preset specifications, or displaying medical device data.

Based on the preamble to the proposed rule, and the comments received in response to the proposed rule, FDA is now finalizing the reclassification of medical device data systems from class III to class I. This classification will be codified at 21 CFR 880.6310. To meet the definition of an MDDS under § 880.6310, a data system must be intended for the "transfer," "storage," "electronic conversion * * * in accordance with a preset specification," or "electronic display" of medical device data, "without controlling or altering the functions or parameters of any connected devices." This classification excludes any data systems with intended uses outside the scope of this rule, as further described in section III.B of this document.

FDA made some changes to the rule in response to the comments received. Specifically, FDA has revised the rule as follows:

Paragraph (a)(1) has been modified by moving the reference to "without altering the function or parameters of any connected devices" from paragraphs (a)(1)(i) through (a)(1)(iii) to introductory paragraph (a)(1) of the final rule. Furthermore, a reference to "controlling" was added, and "function" was revised as "functions." These changes were made to avoid redundancy and to clarify that an MDDS can transfer data that controls a connected medical device not initiated by the MDDS.

Paragraph (a)(1)(i) has been modified to remove the reference to the "exchange" of medical device data by an MDDS. This reference was removed to clarify that the intended use of this medical device type is to act as a communication conduit through which medical device data can be transmitted. The word "exchange" could have implied a more active role in data generation or manipulation than that intended for this device type.

Paragraph (a)(1)(ii) has been modified to remove the reference to "retrieval." FDA made this change because the role of an MDDS relating to data flow is adequately described by the reference to "transfer" functionality in paragraph (a)(1)(i). The MDDS can act as a communication conduit for sending and receiving medical device data.

Paragraphs (a)(1)(iii) and (a)(1)(iv) were reordered to place the conversion function before the display function. FDA undertook this organizational change to provide clarification of MDDS functionality and because this ordering is more logical and easier to follow. There is no substantive change intended from this reordering.

Paragraphs (a)(1)(ii) and (a)(1)(iii) have been modified to remove the words "from a medical device." FDA removed these words to clarify that for purposes of the data storage and display functions, the direction the medical device data flows—to or from the MDDS—is not important.

Paragraph (a)(2), which in the proposed rule defined medical device data, has been modified. In response to requests for clarification concerning the acceptable system components of an MDDS, paragraph (a)(2) now provides a list of system components that may be included in an MDDS. FDA has determined that medical device data need not be defined in the rule itself. We are, however, providing clarification here regarding what constitutes medical device data. As stated in this final rule, an MDDS only communicates medical device data. For purposes of this rule, data that is manually entered into a medical device is not considered medical device data. However, if manually entered data is subsequently transmitted from a medical device as electronic data it will be considered medical device data. A device that then transmits that data or is intended to provide one of the other MDDS functions with regard to that data may be an MDDS. In response to requests for clarification, the use of "real time, active, or online patient monitoring" in the proposed rule has been replaced to indicate that an MDDS is not "intended to be used in connection with active patient monitoring."

Paragraph (b) has been modified to exempt all MDDSs from premarket notification requirements (subject to the limitations on exemption in § 880.9). Based on comments received and a review of data compression features in MDDSs and similar device types, FDA has determined not to require premarket notification for MDDSs that feature irreversible data compression. In addition, the limitation on the scope of

the premarket notification exemption to use by health care professionals has also been removed. Based on comments received and information FDA has gathered, FDA does not have reason to believe there is a potential unreasonable risk of illness or injury from an MDDS, even when used by someone other than a health care professional. Therefore, FDA is exempting MDDS devices from the premarket notification procedures in subpart E of part 807 (21 CFR part 807) (510(k) requirements), subject to the limitations in § 880.9.

III. Comments and Responses

The comment period for the MDDS proposed rule began on February 8, 2008, and remained open until May 8, 2008. The Agency received comments from 21 different organizations. Comments were received from device manufacturers and related companies; information technology companies and associations; trade organizations representing device manufacturers and other interested parties; professional associations and organizations representing health care practitioners; and health care and consumer advocacy organizations, including individual physicians and hospital/health care organizations.

In general, all the comments recognized the importance of regulating MDDSs as their own device type. The comments generally fell into the following four main categories: (1) Comments on the classification and exemption of the MDDS; (2) comments seeking additional explanation of the scope of the MDDS classification; (3) comments requesting clarification of terms used in the classification regulation; and (4) comments discussing other issues, such as the analysis of burdens and regulatory requirements.

A. Classification and Exemption of MDDS

(Comment 1) It was suggested that the MDDS should be classified as class II, rather than class I. The comment asserted that because MDDSs must send a signal to the medical device transmitting the data, this can increase the risks of the system. As such, this comment suggested that class II special controls, such as standardized formats and languages, in addition to general controls, were needed. One comment recommended that MDDSs be subject to performance standards related to data formats, interoperability, etc.

(Response) FDA disagrees that devices within the scope of this classification should be class II or that performance standards are required. The general controls, particularly the QS requirements, will provide a reasonable assurance of the safety and effectiveness of this device type. These are devices through which medical device data are passively transferred or communicated. In transferring or communicating the data, an MDDS by itself may not alter or control the functioning of any other medical device. Other devices with which an MDDS operates or to which an MDDS is connected may themselves be class I, II, or III devices, depending on their intended uses, and will need to comply with the controls and safeguards applicable to their classification. These controls will address any risks associated with the device's ability to function with data received from or sent to the MDDS. The information available to the Agency, including the comments provided, does not suggest that general controls are insufficient to provide a reasonable assurance of the safety and effectiveness of this device type or that special controls or performance standards are necessary. Because MDDS systems are so varied and these systems and their communication protocols change frequently, FDA believes that special controls would not be particularly effective. To emphasize the passive transfer or communication function of MDDS, however, the reference to the "exchange" function was removed from the rule. This term could imply that an MDDS may actively affect or manipulate the data of or from other devices. We believe the QS regulation and other general controls will provide a reasonable assurance of safety and effectiveness for this device type. The QS regulation requires that manufacturers ensure that devices perform as intended (through design, development, and other quality systems requirements) (part 820). The other general controls, such as labeling requirements and adverse event reporting, ensure that users have information necessary to use the MDDS, and that any problems that occur are reported to FDA (21 CFR parts 801 and 803).

(Comment 2) Comments were received seeking clarification of the term "health care professional" as used in reference to the premarket notification exemption for certain MDDSs in § 880.6310(b). Specific comments suggested that the term "health care professional" should not be limited to those performing medical treatment, but should also include managers, data entry clerks, and others who perform similar administrative tasks. Other related comments stated that the exemption from premarket notification should be extended to devices intended for all users, not just health care professionals, and to all prescription MDDSs. A few comments asked for clarification of whether use of a device to transmit medical device data from a patient device for physician review would be considered lay or professional use. One comment asked whether a system allowing lay users to view data at home, even when they cannot change the data and are not instructed to take any action, would require premarket notification.

(Response) FDA has reconsidered its position regarding requiring premarket notification for MDDSs when intended for use by someone other than a health care professional. FDA agrees that the exemption from premarket notification should be extended to an MDDS intended for any user, not just health care professionals. Under section 510(l) of the FD&C Act, a class I device may be exempt from the premarket notification requirements unless the device is intended for a use which is of substantial importance in preventing impairment of human health, or it presents a potential unreasonable risk of illness or injury. FDA refers to these criteria as "reserved criteria." Based on the information received, FDA does not have reason to believe that an MDDS, when intended for use by someone other than a health care professional, would present an unreasonable risk of illness or injury. FDA bases this position on the absence of any reported adverse events or other data in the record to indicate that transferring, storing, converting from one format to another according to preset specifications, or displaying medical device data would pose an unreasonable risk when used by someone other than a health care professional. Therefore, we have determined that lay use of an MDDS, either to transmit data from a patient device or to present data to a patient (*e.g.,* for the patient to view the data from home), would not require premarket notification. However, FDA may decide to change the exempt status of MDDS in the future if, through normal reporting mechanisms or otherwise, FDA determines that the use of these devices by someone other than a health care professional poses an unreasonable risk of illness or injury. In response to the comments requesting clarification of the term "health care professional," FDA is not defining this term because the term is no longer used in the regulation.

(Comment 3) Comments raised the question whether certain devices, such as glucose monitors, would be impacted by the exemption limitation under § 880.9(a), (b), and (c)(5).

(Response) This rule in not intended to change the regulation of glucose monitors, which would not be classified as MDDSs.

B. Scope of MDDS Classification

(Comment 4) Several comments asked for clarification on the intended uses of an MDDS. For example, one comment stated that the rule appeared to indicate there were two device types that fit under the MDDS classification: (1) Those that pass medical data from a source(s) to a destination(s); and (2) clinical user-focused devices that archive and/or display medical device data. Several comments recommended that particular devices, such as automatic backup systems, systems to automate workflow or provide workflow decision support, billing/claims systems, and systems that provide appointment scheduling, should be excluded from MDDS classification. One comment suggested that software functionality such as automating decision support protocols and guidelines, where the manufacturer provides the mechanism but the health care professional enters the detailed protocol information, should be excluded from MDDS classification. A few comments requested clarification with respect to "competent human intervention" from the 1989 Draft Software Policy in determining whether a device is an MDDS.

(Response) In response to these requests for clarification of the intended uses and functionality of an MDDS, FDA has revised the rule. Specifically, FDA has clarified that MDDSs are data systems that transfer, store, convert according to preset specifications, or display medical device data without controlling or altering the function or parameters of any connected medical device—that is, any other device with which the MDDS shares data or from which the MDDS receives data. A system that performs any other function or any additional function is not an MDDS. An MDDS acts only as the mechanism through which medical device data can be transferred, stored, converted, or displayed. An MDDS does not modify, interpret, or add value to the data or the display of the data. An MDDS does not add to or modify the intended uses or clinical functions that are already contained within the medical devices that provide data to (or receive data through) the MDDS. An MDDS by itself does not control the functioning of any other medical device. An example would be in the case of software that would alter the parameters on an infusion pump. The MDDS could pass that control signal to the infusion pump, but the MDDS could not initiate that signal. An MDDS can, however, control its own functionality. It can generate signals to establish and implement communication of medical device data. For example, if a system stores data and contains diagnostic functionality that allows it to perform clinical assessments or clinical monitoring, such as alarm functionality based on preset clinical parameters, that system is not an MDDS. At the same time, a device or system that does not transfer, store, convert, or display medical device data is also not an MDDS. Although we cannot determine, in the abstract, whether a particular workflow or billing system would be an MDDS, systems that do not receive or transmit data from a medical device (i.e., medical device data) would not meet the MDDS definition.

The 1989 Draft Software Policy was withdrawn as indicated in the **Federal Register** of January 5, 2005 (70 FR 824 at 890). This final MDDS rule should be used for determining whether a device is an MDDS.

(Comment 5) Comments were received requesting clarification of the types of medical device data that can be transmitted via an MDDS. Specifically, one comment suggested that the type of medical device data transmitted via an MDDS be limited to the transmission of medical device data away from a medical device, so as to emphasize the Agency's position that the "report-writing functions of a computer system," or manual entry of data, would not be considered an MDDS. Several comments suggested that an MDDS was only the device data system that interfaces directly with the device that generated the medical device data, whereas systems which receive the information subsequently would not be an MDDS. One comment suggested that software modules that retrieve, transmit, store, display, transfer, or exchange static representations of medical device data from an MDDS or other medical device are not medical devices.

(Response) FDA agrees that the term "medical device data" could be clarified with regard to the intended functionality of an MDDS. FDA considers medical device data to be any electronic data that is available directly from a medical device or that was obtained originally from a medical device. As FDA explained in the proposed rule, "It is FDA's long-standing practice to not regulate those manual office functions that are simply automated for the ease of the user (*e.g.,* office automation) and that do not include MDDS as described previously. For example, the report-writing functions of a computer system that allow for the manual (typewriter like) input of data by practitioners would not be considered as an MDDS, because these systems are not directly connected to a medical device" (73 FR 7498 to 7500). FDA agrees that any data manually entered into a medical device and not then electronically transmitted is not to be considered medical device data for purposes of this rule; MDDSs are not intended to capture report-writing functions of a computer system. If data that has been manually entered into a medical device is subsequently transmitted from the medical device as electronic data, however, this data will be considered medical device data. Medical device data can be communicated from any connected device, regardless of whether it is received directly from the originating medical device. For example, transmission of "static representations" of medical device data would not preclude a system (or device in that system) from being an MDDS. Accordingly, FDA has removed the words "from a medical device" from the proposed paragraph (a)(1) and has removed the language of proposed paragraph (a)(2) defining medical device data. This standard is not needed in the rule itself, and is being clarified in the preamble instead.

(Comment 6) One commenter asked FDA to clarify that an MDDS can exchange data between medical devices.

(Response) An MDDS is intended to be a communication conduit for medical device data. An MDDS does not create or generate any of its own data, including signals, to be sent to a medical device, other than data relating to the MDDS's own functioning (i.e., self-diagnosis or reports of malfunctioning). But, an MDDS may be used to transmit medical device data that originates from a source that is external to the MDDS either to, or away from, another medical device. To emphasize this intended function of an MDDS, the term "exchange," in proposed § 880.6310(a)(1)(i) has been removed from the final rule. As stated in the final rule, an MDDS may transmit data between devices so long as it does not control or alter the functions or parameters of those devices.

(Comment 7) Several comments inquired whether Computerized Provider Order Entry (CPOE) systems and electronic prescribing systems would be regulated under the MDDS rule. Several comments also asked whether electronic health record products would be regulated under the MDDS rule. One comment suggested that electronic medical record products

used in the perioperative environment should be regulated as class II.

(Response) This rule is limited in scope to devices meeting the definition of an MDDS. It does not address, or consider, other device functionality or an intended use that is outside this definition. For instance, as noted in the proposed rule, "[t]his * * * regulation does not address software that allows a doctor to enter or store a patient's health history in a computer file" (73 FR 7498 at 7500). Moreover, as previously stated, manually entered data is not medical device data unless it is subsequently transmitted electronically. Thus, although we recognize that certain functions of an MDDS might be present in an electronic health record product, we expect electronic health record software generally falls outside the MDDS classification. Moreover, a device or system such as a CPOE system that, for instance, can order tests, medications, or procedures, would not meet the MDDS definition because its intended uses fall outside that definition's scope.

(Comment 8) Many comments asked whether systems already regulated under other specific device type regulations would fall under the MDDS regulation. Specifically, the comments inquired whether certain devices, such as a laboratory information system (LIS) classified as a calculator/data device processing module for clinical use under § 862.2100 (21 CFR 862.2100), or a picture archiving and communications system (PACS) classified under § 892.2050 (21 CFR 892.2050), would fall within the scope of the MDDS regulation.

(Response) FDA intends for the MDDS definition to be broad, to capture systems that feature the functions identified in this rule but that do not fall under another device type regulation. Numerous device classifications exist for products that perform data and information transfer, storage, display, conversion, and/or similar management functions. The MDDS classification only applies to devices that meet the MDDS definition and do not have additional functions that are outside the scope of an MDDS and that fall within an existing classification. An LIS and a PACS (§§ 862.2100 and 892.2050, respectively) are two device classifications that encompass functionality similar to an MDDS, but they have other specific intended uses or features that are outside the scope of the MDDS rule. A PACS may have similar functionality as an MDDS, but a PACS may perform digital processing, unlike an MDDS. Moreover, a PACS deals only with medical images, while an MDDS may deal with images and other medical data. A LIS, classified under the calculator/data processing module for clinical use regulation, may store clinical data; but a LIS is also able to process data, unlike an MDDS. Another device that is potentially similar to an MDDS is a medical image management system (MIMS), classified under the medical image communications device regulation (21 CFR 892.2020). But a MIMS transfers medical images, unlike an MDDS.

If a device meets the definition of a LIS or PACS or other already classified device, the device is within that device type and is regulated accordingly, even if one or more of its intended uses might overlap with the MDDS classification. FDA is not aware of any currently marketed PACS, LIS, or MIMS devices that have the intended use of an MDDS and no other intended uses. If a manufacturer believes its PACS, LIS, or MIMS device meets the definition of an MDDS, it should contact FDA.

(Comment 9) One comment requested clarification regarding the reference in the proposed rule to an MDDS not containing any "new or unique" algorithms, and asked whether a combination of existing algorithms or functions would be considered new or unique. Some comments inquired whether APACHE Medical Systems or Apgar scores would be considered a clinical decision support system.

(Response) For the purposes of this rule, any functionality or algorithms supporting intended uses that are not included in this rule's definition of MDDS would be considered "new or unique." This MDDS rule does not address whether APACHE or Apgar Scoring would be considered clinical decision support systems. FDA expects that systems such as APACHE decision support systems and software-based Apgar scoring systems generally would perform functions that are outside the scope of an MDDS. MDDSs are intended to perform only certain functions: Transferring, storing, converting in accordance with a preset specification, or displaying medical device data. Any functionality such as processing, characterizing, categorizing, or analyzing the data would be outside the scope of an MDDS. Furthermore, systems that perform any clinical or medical diagnostic function are not considered MDDSs.

(Comment 10) Other comments raised questions regarding whether a database that flags certain data or prioritizes data, or a system that creates data plots or graphs, would be considered an MDDS. Another comment suggested that systems that trend raw data over time could still be an MDDS. One comment asked whether a system that emails a physician when medical data fits pathologic patterns or a system that presents medical data with analytic pattern fit statistics can be an MDDS.

(Response) An MDDS has intended uses that are limited to transmitting, storing, converting according to a preset specification, and displaying data. FDA considers flagging (via email or otherwise), analyzing, prioritizing, plotting, or graphing data to be additional uses that add value or knowledge to the existing data and thereby exceed the limited functionality of an MDDS. An MDDS with a display function is intended only to display data in the same form in which the data was received from a connected medical device. Use of an MDDS for conversion is limited to translation, so that data can be viewed or transmitted in the same form that it was received by the MDDS. An MDDS can convert data into different languages, so that devices or equipment from different vendors can share information. An MDDS cannot, however, interpret the data or change the form in which the data was received by the MDDS. For example, an MDDS could convert data to or from the HL7 format, so that data provided from a connected medical device in spreadsheet form could be displayed in spreadsheet form by the MDDS or another connected device. But numerical data from a medical device connected to an MDDS could not be displayed graphically by the MDDS, nor could the MDDS display graphic data in spreadsheet form or otherwise in a different graphic form.

(Comment 11) FDA received comments inquiring as to the scope of the phrase, "without altering the function or parameters of any connected devices," in proposed § 880.6310(a). Commenters also asked whether a system that sends data to an infusion pump to control the flow rate, updates clock time on a connected device, sends software updates to, or updates database information embedded in, a connected device would be considered an MDDS.

(Response) As previously described, the language that is the subject of these comments has been slightly modified in the final rule, primarily by adding reference to not "controlling" such functions or parameters and moving this language up to the beginning of paragraph (a). A system that initiates the data or generates the control signal to an infusion pump to control the flow rate would not be an MDDS because, as the revised final rule indicates, generation of data is not an intended use for an MDDS and an MDDS performs its

intended uses without "controlling or altering the functions or parameters of any connected devices." FDA considers a device to control or alter a connected device if, among other things, it generates a signal or other data that controls or alters the functioning of the connected device. Therefore, an MDDS could transfer a signal or other data from an initiating device to the infusion pump in the situation described in the comment. As the final rule states, an MDDS by itself cannot control or alter the parameters or functions of a connected medical device. Rather, the MDDS can be used to transfer data from a non-MDDS initiating device, which when received, will alter the parameters of a connected device. The product that initiates the alteration of the device function would be a medical device that is classified separately from the MDDS. Similarly, any software, or corresponding information technology (IT) system, that issues or creates data or system changes, including the clock time, or modifies any control parameters of any connected device, such as software updates or database information, is not an MDDS.

(Comment 12) Some comments asked whether generation of an email message, or conversion to Hypertext Markup Language (HTML), Portable Document Format (PDF), Health Level 7 (HL7), or similar format, would be considered equivalent to generating a printable format. As described in the proposed rule, "A medical device data system (MDDS) is a device intended to provide one or more of the following uses: * * * [t]he electronic conversion of medical device data from one format to another format in accordance with a preset specification. For example, this would include software that converts digital data generated by a pulse oximeter into a digital format that can be printed." (73 FR 7498 at 7499 and 7500).

(Response) FDA agrees that an MDDS may convert medical data "from one format to another format in accordance with a preset specification" (§ 880.6310(a)(1)(iii)). A preset specification is a standardized translation of data from the format in which it was received from a medical device to another format in which the data are stored, displayed, or transferred by the MDDS. For example, this may include conversion of data to HTML, PDF, HL7, or similar format. An MDDS may not otherwise convert, alter, modify, or interpret the data that is received from a medical device, and may not change the form in which the data is stored, transferred, or displayed (*e.g.,* from a graph to a spreadsheet).

(Comment 13) FDA received several comments inquiring whether different formats met the definition of "display." In one comment, FDA was asked to explain whether a "viewer," which a practitioner can use to review and confirm clinical results for the purpose of patient treatment, would be considered a "display." Other comments raised the question whether monitors and computer terminals that display medical device data would be considered MDDSs. Still other comments asked FDA to clarify that medical devices with display screens are not MDDSs.

(Response) As stated in this document, systems with display functioning can be considered an MDDS, so long as the device meets the other parts of the MDDS definition; devices would not qualify as an MDDS merely because they have a display screen. As identified in the proposed rule, and discussed elsewhere in this final rule, an MDDS does not include systems that have intended uses for clinical functioning or active patient monitoring. As long as a device with a viewer performs only those functions in the MDDS definition, it would be an MDDS.

(Comment 14) Another comment raised the question whether a device with a data display that overlaid, or superimposed, images would be considered an MDDS.

(Response) FDA cannot determine whether this would be an MDDS without additional information about the device. The device's classification would depend on whether its intended uses were limited to those of an MDDS, including the display of medical device data and converting medical device data according to preset specifications. FDA would also need to determine whether the display functionality provides an additional layer of diagnostic support to the health care professional, such as active patient monitoring, which is not an intended use for an MDDS.

(Comment 15) Many comments asked whether various system constructions and components, in general, would be regulated as MDDSs under § 880.6310. Several comments asked whether "off-the-shelf" software, wireless systems, backup systems, third party equipment, or interfaces would be considered MDDSs.

(Response) FDA has defined an MDDS as a system that transfers, stores, converts according to preset specifications, or displays medical device data. By themselves, any system, or component of a system, that is solely intended for use as general IT equipment (and that is not intended for a device use under section 201(h) of the FD&C Act), would not be considered a medical device.

FDA recognizes that an MDDS, as a system, can consist solely of software, or can feature additional components constructed in many different ways. Such a system can include software, hardware, and the intended architecture, as well as any interfaces and functions of connected devices. Due to the wide variations among these systems, FDA cannot ascertain based on the comments whether specific system constructions or components would meet the definition of an MDDS. To better convey the scope of what FDA considers an MDDS, however, FDA has clarified the rule to indicate that "[a] medical device data system (MDDS) may include * * * a physical communications medium (including wireless hardware), modems, interfaces, and a communications protocol" (§ 880.6310(a)(2)). When the system is validated under the QS regulation (§ 820.30(g)) and in assessing the safety and effectiveness of the device, the entire system, including all components, is considered.[1]

(Comment 16) Many comments requested clarification on whether a product used with medical devices, such as a glucose meter, blood pressure cuff, or spirometer, is an accessory to a previously classified device, an accessory to an MDDS, or a component of an MDDS. A few comments requested clarification on when software developed to operate with a specific device becomes an accessory to that device, regulated under the principal device's classification, and when it remains an MDDS subject to the MDDS rule. One comment noted that FDA has cleared medical device data software for devices such as glucose meters, blood pressure cuffs, and spirometers as accessories to those devices. One comment suggested that software developed to interface only with a particular device be regulated as an accessory to that particular device type, whereas a product intended to be used with generic/multiple types of devices be regulated as an MDDS. The comment further suggested that labeling for MDDS devices that support generic/multiple device types not be prohibited from specifying particular medical

[1] An MDDS manufacturer must comprehensively monitor and address safety and performance concerns of communication methods, including wireless technologies, in the design phase and throughout the product life cycle under the QS regulation (§§ 820.30(g), 820.70, 820.90, and 820.100). Examples of such safety considerations include data corruption or loss of data; timeliness of data delivery; and electromagnetic compatibility.

devices with which MDDS software is compatible.

(Response) As indicated in the classification regulation, an MDDS has limited intended uses. In general, these intended uses include the passive transfer or communication of medical device data without controlling or altering the functions or parameters of any connected medical devices. As such, any product that is a medical device, and that supports a function outside the scope of an MDDS intended use, would not be considered an MDDS. If the product meets the definition of an MDDS because it is limited to the intended uses of an MDDS, FDA will regulate such a product as an MDDS, not as an accessory to or component of another device, regardless of how many particular devices or device types the product supports. FDA recognizes that some devices that meet the definition of an MDDS may have been previously cleared as accessories to other device types. Through enactment of this regulation, devices that are considered MDDSs will now be classified as class I, Exempt, whether they are existing devices or new/modified devices that are now defined as MDDS. If some of the intended uses of a device fall outside the scope of the MDDS regulation, then the device would not meet the definition of or be regulated as an MDDS. Finally, the specific content of MDDS product labeling is outside the scope of this rule, and is governed by part 801.

C. Clarification of Terms

(Comment 17) Several comments requested clarification of the term "irreversible data compression." A few comments requested clarification on whether rounding errors, type conversions, or a loss of fidelity less than the margin of error in the data represented irreversible data compression. Another comment regarding exemption from premarket notification stated that FDA should require premarket notifications for MDDSs that perform "irreversible data compression" only when the MDDS performs irreversible data compressions that can lead to a patient safety risk.

(Response) After reviewing the comments and reviewing device classifications that are potentially similar to the MDDS, FDA has removed the distinction regarding irreversible data compression from the final rule. The safety and effectiveness concern with regard to irreversible data compression is that compressed output data is not an exact replica of the input data. Based on comments received and a review of data compression features in MDDSs and similar device types, FDA has determined not to require premarket notification on the basis of irreversible data compression. FDA has concluded that general controls are sufficient to ensure that any data compression features will not undermine the safety and effectiveness of the device in these circumstances.

(Comment 18) Some comments asked FDA to better define the term "sound an alarm" as used in the proposed rule to characterize a function that an MDDS cannot perform. Other related comments asked about the permissible scope of alarm capabilities of an MDDS. For example, it was suggested that the prohibited alarms be defined as alarms that require positive acknowledgement, cancellation, or clinical impact. Several comments suggested that the definition of an alarm in the MDDS regulations should be consistent with the International Electrotechnical Commission definition (IEC 60601–1–8). Other comments suggested that an MDDS should be permitted to create and detect alarms for low priority physiological conditions. Many comments also noted that if MDDSs could not include an alarm, that would mean an MDDS could not include a signal that the MDDS was malfunctioning. Several comments requested clarification on whether transmitting alarm conditions, including high-priority, real-time alarms, without providing any notification to the user, was acceptable for an MDDS. One comment asked whether displaying the content and timing of an alarm as part of a historical record would exclude a device from the MDDS classification.

(Response) After considering the comments, FDA has removed the term "sound an alarm" from the final regulation. FDA agrees with the comments that an MDDS should be able to include alarms related to its own operational status, such as an alarm announcing a malfunction. FDA recognizes that functions that allow an MDDS to monitor its own operational status are critical to mitigating the risks associated with this device type. Accordingly, FDA considers alarms that monitor the operational status of an MDDS to be an acceptable function within the definition of MDDS.

FDA has further clarified in the final rule that an MDDS excludes any system that does more than transfer, store, convert according to preset specifications, or display medical device data without controlling or altering the functions or parameters of a connected medical device. A device data system that facilitates clinical assessments or monitoring, such as alarm or alert functionality based on preset clinical parameters (including low priority physiological conditions) is not an MDDS. It is permissible for an MDDS to transfer any type of data, including alarms, without analysis or specific recognition of the intent or significance of that data. An MDDS may therefore display or store the content and timing of an alarm generated by a connected device, in the same format as the data was received from the originating device, as part of a historical record.

(Comment 19) Several comments asked FDA to define "real time, active, or online," and recommended that the MDDS classification should exclude monitoring of data critical to the timely care of the patient, without regard to the time required to process data. Other comments suggested that "real time, active, or online patient monitoring" was confusing and would exclude from the MDDS classification devices intended to transmit medical device data to a physician for the purpose of performing remote patient examinations.

(Response) FDA agrees with the recommendation in the comments with reference to "real time, active, or online patient monitoring". We have modified the rule to include the word "active" to represent any device that is intended to be relied upon in deciding to take immediate clinical action. A device intended to be used for active patient monitoring (or decision support) is not an MDDS. There are existing classifications for patient monitoring devices.[2] The detection, measurement, or recording of patient data and other functions of a patient monitoring device are outside the scope of an MDDS. Moreover, as a class I device, an MDDS is not intended to be used in connection with active monitoring that depends on the timeliness of the data transmission, because an MDDS is not subject to controls relating to the speed of transmission and conversion. Any device that transmits, stores, converts, or displays medical device data that is intended to be relied upon in deciding to take immediate clinical action or that is to be used for continuous monitoring by a health care professional, user, or the patient is not an MDDS. Such devices are generally accessories to other devices. FDA has changed the final regulation to state that an MDDS

[2] *See, e.g.,* 21 CFR part 880, subpart C (general hospital and personal use monitoring devices); 21 CFR part 868, subpart C (anesthesiology monitoring devices); 21 CFR part 884, subpart C (obstetrical and gynecological monitoring devices); and 21 CFR part 870, subpart C (cardiovascular monitoring devices).

"does not include devices intended to be used in connection with active patient monitoring."

D. Analysis of Burdens and Regulatory Requirements

(Comment 20) Comments inquired how FDA would implement this regulation. These comments inquired as to the deadline for submitting premarket notifications and complying with registration and listing requirements. Several commenters requested an extension of 18 to 24 months for manufacturers to comply with the QS regulations and other controls, because many of the affected entities, such as hospitals acting as MDDS manufacturers, will be creating compliant processes and systems from scratch. Additional related questions pertained to the enforcement of the regulation. Specifically, comments expressed concern with how health care facilities would be regulated, and suggested that a longer period of time be permitted for these facilities to register and list the device, as well as to comply with the QS regulations. One comment requested clarification on how the term "legally marketed" would be interpreted by FDA in determining whether retrospective design controls would be required, given that no MDDS devices have received premarket approval (PMA), as would be required prior to issuance of this final rule in order to have been legally marketed. The comment further suggested that the limitations on 510(k) exemptions under § 880.9 are not applicable provided that the results from the connected device are not displayed to the user.

(Response) FDA recognizes that some MDDSs already on the market are not currently manufactured in accordance with QS and Medical Device Reporting (MDR) requirements. As further discussed in section IV of this document, all manufacturers of MDDSs, including any health care facilities acting as manufacturers, will be required to comply with this regulation, which will become effective 60 days after the date of publication in the **Federal Register**. FDA expects manufacturers of an MDDS to register and list the device by 90 days after the publication date of this final rule in the **Federal Register**. FDA expects that all MDDS manufacturers will have established a compliant quality system and MDR system for their devices within 12 months after the effective date of the final rule. Particularly, FDA expects all MDDS manufacturers to establish and maintain adequate design controls as part of their quality system. The Office of Compliance will use existing policies and procedures, such as Form FDA 483 "Inspectional Observations," warning letters, and other established mechanisms in the regulation of MDDS manufacturers. FDA does not intend to enforce design control requirements retroactively to any currently marketed device that would be classified as an MDDS under this rule; however, FDA does intend to enforce design control requirements for design changes to a currently marketed device once there is a design change. See response to Comments 2 and 17 regarding premarket notification requirements. FDA does not agree that because an MDDS device cannot display results to the user it would always be exempt from 510(k) requirements (*i.e.,* would not be subject to the regulatory limitations on exemptions in § 880.9). MDDSs may be subject to premarket clearance requirements if they exceed the limitations on exemptions (§ 880.9).

(Comment 21) Comments were received from hospital systems and other organizations, inquiring whether certain entities would be subject to the MDDS regulation. Specifically, some comments asked FDA to exclude manufacturers from this regulation if they are not in the business of marketing or selling devices, software, or software components. Other comments asked whether a health care facility or other purchaser that modifies MDDS software or hardware purchased from a vendor would be considered a manufacturer. A few comments noted that it is the customer, and not the manufacturer, who often decides whether MDDSs are connected to other MDDSs or other medical devices, and how these systems interact.

(Response) This final rule establishes the classification and regulatory controls applicable to an MDDS. Manufacturers of MDDSs must comply with these regulatory controls. Manufacturers of software systems or other products that do not have intended uses covered by the MDDS classification would not be subject to this rule. A purchaser of an MDDS who has only used, configured, or modified the MDDS in accordance with the original manufacturer's labeling, instructions for use, intended use, original design, and validation would not be considered a manufacturer for purposes of this regulation. If, however, a user makes any modifications to the MDDS that are outside the parameters of the original manufacturer's specifications for the device, for purposes of the user's clinical practice or otherwise for commercial distribution, that user becomes a manufacturer under the MDDS rule, and as a result is subject to applicable device regulations, including registration and listing and the QS regulation. Likewise, if a user reconfigures any other product into an MDDS for such purposes, that user would also be a device manufacturer subject to applicable regulations. This is consistent with FDA's current definition of a "manufacturer" for purposes of the MDR system, establishment registration and device listing, reports of corrections and removals, and QS regulations (parts 803, 807, 820, and 21 CFR part 806).

(Comment 22) Some comments asked whether a health care facility or other purchaser that buys software or hardware that has not been labeled or otherwise denoted as an MDDS, and that then subsequently utilizes the software or hardware for functionalities within the scope of this MDDS regulation, will be considered a manufacturer. A few comments asked whether device communication protocols incorporated by third-party companies or custom interfaces developed by hospitals would fall within the scope of the MDDS classification.

(Response) For clarity, we interpret the comment to presume that the software or hardware is not modified after purchase. A health care facility or other purchaser that buys software or hardware that has not been labeled or otherwise denoted as an MDDS, but is used as an MDDS, is not considered to be a manufacturer. If, however, the purchaser adds to or modifies any hardware or software such that the software is intended to provide the transfer, storage, conversion according to preset specifications, or display of medical device data (or otherwise modifies the product to render it a medical device) and uses it in clinical practice, the purchaser becomes a device manufacturer in accordance with § 807.3(d). If a third-party company or hospital develops its own software protocols or interfaces that have an intended use consistent with an MDDS, or develops, modifies, or creates a system from multiple components of devices and uses it clinically for functions covered by the MDDS classification, then the entity would also be considered a device manufacturer.

(Comment 23) One comment sought clarification of the applicability of the QS regulation, specifically the applicability of design controls, to an MDDS. A few comments noted that upon issuance of the final rule on MDDS, § 820.30(a)(2)(ii) will need to be updated to add MDDSs.

(Response) The MDDS, at its most basic composition, could be software

that automates a system. Accordingly, even though many class I devices are exempt from the design control requirement, the MDDS is already subject to design controls under § 820.30(a)(2)(i) because MDDS devices are automated with software. Manufacturers of MDDSs therefore must comply with these design control requirements, as outlined in section IV of this document.

(Comment 24) A few comments inquired as to how to meet the MDR requirements for MDDSs. Specifically, one comment pertained to whether all MDDS problems should be reported, and asked whether a hospital is responsible for MDRs only for MDDS software problems, or also for problems that may be due to hardware on which MDDS software is running. The comment further asked whether MDDS problems related to malware or viruses should be reported. Another comment asked whether hospitals were responsible for reporting MDDS MDR events even when they cannot be sure which specific MDDS created the reportable event. This comment further referred to existing custom hospital software that meets the definition of an MDDS, and asked whether MDRs would be required for these systems and whether problems detected during upgrades to such systems would be reportable. One comment also recommended the development of a health IT complaint reporting system.

(Response) Manufacturers, including hospitals that develop custom systems that meet the definition of an MDDS, must comply with the MDR requirements in part 803. This reporting obligation applies to events in which a medical device has or may have caused or contributed to a death or serious injury, as well as certain device malfunctions. This rule does not affect a manufacturer's obligations under part 803. Additionally, a device user facility, as defined in § 803.3 to include hospitals, is required to report device-related deaths and serious injuries. This reporting should include all available information on the MDR event, including any information about the role that malware or viruses may have played in the event. As discussed previously, purchasers, including hospitals, are subject to MDR requirements applicable to manufacturers concerning an MDDS to which the hospital has added to or modified any hardware or software. The same requirements apply to hospitals that develop their own software protocols or interfaces that have an intended use consistent with an MDDS. Hospitals that use MDDSs without engaging in these manufacturing activities must report in accordance with the requirements for user facilities. FDA does not currently have any plans for specialized reporting systems for MDDSs.

(Comment 25) Several comments requested clarification on how multi-purpose or modular software and devices would be handled with regard to the MDDS rule. For example, one comment recommended that devices with both diagnostic/therapeutic functionality and MDDS functionality could be partitioned such that the MDDS functionality could be modified without having to submit for premarket review. One comment suggested that separable stand-alone software modules capable of independent operation should be regulated individually based on the intended use of that module, whereas modules that are not intended to operate independently, would be regulated based on the intended use of the entire software system. One comment suggested that devices that comprise a virtual system—for example, a blood pressure cuff that can transmit information used with a cell phone that can receive such information—be regulated independently, and that the combination of such devices should not result in a new device.

(Response) The MDDS regulation does not necessarily prevent modular implementation. Because of the various ways in which an MDDS may be configured and integrated with other medical devices and the potential effect of new configurations on functionality and intended use, it is not possible for FDA to make generalized determinations on whether an MDDS or related software module would require premarket review, nor can FDA determine whether the combination of multiple devices would result in a new device requiring premarket review absent further information about the specific devices. The previous responses to comments regarding accessories and components provide guidance on how particular parts of a system would be regulated under the MDDS rule. Manufacturers should contact FDA regarding questions about regulation of specific devices.

(Comment 26) One comment recommended that FDA provide education sessions and written materials on implementing the QS regulation for MDDSs. Another comment suggested revision to the 1989 Draft Software Policy or the development of new guidance specifying products excluded from MDDS classification, and a methodology for clarifying the regulatory status of products that are excluded.

(Response) FDA believes this final rule and preamble provide an adequate description of the MDDS classification, but FDA will consider providing training and other educational outreach to MDDS manufacturers and users. FDA provides numerous resources to entities seeking guidance on compliance with the QS regulation. The FDA Web site provides device advice and training modules specific to the QS regulation. In addition, manufacturers may contact the Division of Small Manufacturers, International and Consumer Assistance for assistance with QS regulation compliance questions. As previously indicated in section I.C of this document, the 1989 Draft Software Policy has been withdrawn.

(Comment 27) A few comments suggested that FDA hold public hearings/workshops on the proposed regulation to provide clarification on the definition of MDDS and what devices are excluded from the classification, as well as a public forum for discussing the benefits and risks of MDDS systems. A few comments suggested that the comment period for the proposed rule should be extended.

(Response) In issuing this regulation, FDA followed the required rulemaking process (§ 10.40 (21 CFR 10.40)). Through this process, we published a notice of the proposed rule and provided a 90-day public comment period, which is longer than the required 60-day timeframe (§ 10.40(b)(2)). In response, we received comments from 21 organizations, and made several changes to the rule, as noted. Having provided sufficient opportunity for public comment and having weighed those comments, FDA finds no basis for delaying implementation of this rule for an additional comment period. Furthermore, FDA has no plans for public hearings or public forums at this time. FDA is finalizing this rule without a public meeting based on the substantial substantive and constructive comments received during the comment period. As a result, we do not believe a public meeting would add any additional constructive input that would merit delaying implementation of the rule.

(Comment 28) One comment suggested that FDA should perform a study to identify those MDDS systems that present the greatest risk in order to more clearly define categories for possible regulation. The comment further suggested that the MDDS regulation should only apply to software that presents patient safety risk as

identified by the proposed study. Another comment suggested that FDA determine the potential impact associated with low-risk MDDS systems on patient safety before implementing the regulation.

(Response) FDA believes that all MDDS devices present some patient safety risk. FDA has determined that MDDSs can be regulated as class I devices, however, because general controls, particularly those contained in the QS regulations, provide sufficient regulatory safeguards to provide a reasonable assurance of safety and effectiveness for this device type. FDA did not receive information from the comments or other sources suggesting that there are other categories of MDDS that are high risk and, therefore, FDA does not believe that there is any need to conduct a more elaborate study or categorization of MDDSs for purposes of this regulation.

IV. Implementation

This rule will become effective 60 days after the date of publication of the final rule. All MDDS manufacturers will be expected to register electronically and list under part 807 within 90 days of the publication of this final rule in the **Federal Register**. FDA expects all manufacturers of MDDSs to develop and implement a compliant quality system and comply with Medical Device Report requirements within 12 months of the effective date of this regulation.

V. Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this reclassification action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Analysis of Impact

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). 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 Agency believes that this final rule is not a significant regulatory action under the Executive order.

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. As FDA explained in the proposed rule, FDA has been exercising enforcement discretion up to now with respect to class III requirements on MDDSs, but ongoing enforcement discretion may not be a viable long-term regulatory alternative (73 FR 7498 at 7501 and 7502). Because this rule is therefore deregulatory, creates no new burdens in addition to those that exist already under the FD&C Act, and will relieve manufacturers of the cost of complying with existing legal requirements applicable to Class III devices in the future, the Agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that Agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing "any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year." The current threshold after adjustment for inflation is $135 million, using the most current (2009) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this final rule to result in any 1-year expenditure that would meet or exceed this amount.

A. Background

An MDDS is a device that electronically transfers, stores, converts according to preset specifications, or displays medical device data. It does not provide any diagnostic or clinical decisionmaking functions. It does not modify data or the display of data. The MDDS device is currently classified into class III, the highest level of regulatory oversight. The MDDS was initially placed in this classification by default.

We published a regulatory impact analysis as part of the proposed rule in the **Federal Register** of February 8, 2008. In that analysis, we described that in the absence of continuing enforcement discretion, changing the classification for an MDDS from the default class III (premarket approval) to class I (general controls) would be deregulatory. The cost of complying with the requirements for general controls under class I is a small fraction of the cost of complying with the premarket approval requirements under class III. MDDS manufacturers, as makers of class III devices, bear all costs associated with premarket approval, including the cost of submitting the premarket approval application (PMA) and payment of user fees. The costs associated with the submission of the PMA are substantial, potentially reaching $1,000,000.

B. Comments and Responses

In the analysis accompanying the proposed rule, we requested information on the size of the MDDS industry, but received no comments on that issue. FDA did receive seven comments on the regulatory impact analysis.

(Comment 1) There were three comments asserting that the costs of compliance for large health care organizations could be greater than what had been estimated in the proposed rule and would be a burden to some of these organizations. One of these comments stated that if the definition of an MDDS was overly broad, compliance costs could be in excess of $100 million.

(Response) FDA believes the comments misinterpret the definition of an MDDS. The comments reference systems of Electronic Health Records (EHRs) and Personal Health Records (PHRs). Although an EHR or PHR system, or a portion of such a system, may constitute a medical device, these are explicitly excluded from this rulemaking. This rule only addresses those medical devices that meet the MDDS definition. Moreover, health care organizations purchasing off-the-shelf software and using this software according to the product labeling will not be subject to regulation. In any event, a narrower MDDS definition could render more devices subject to the more burdensome class III requirements.

(Comment 2) There were three comments citing published data to claim costs of compliance could be substantially greater than estimated in the proposed rule and that the burden could be expected to exceed the threshold amount of $135 million.

(Response) FDA believes the cited estimates do not apply to this rulemaking because the source analysis projects burdens associated with EHR, PHR, and radiology information systems (RISs). EHR and PHR systems are not included in this rulemaking, and RIS are already regulated and would not be affected by this final rule. Moreover, the burden of complying with class III requirements is significantly greater.

(Comment 3) A comment asked that FDA include in its Analysis of Impact an estimate of costs associated with developing and implementing the necessary systems to ensure compliance

with FDA's MDR requirements, as many MDDS manufacturers are non-traditional medical device manufacturers. The comment noted that IT companies could have products being used in both MDDS and non-MDDS applications.

(Response) In the analysis of impacts in the proposed rule, FDA estimated costs of complying with FDA's QS and MDR regulations. Although specific requirements may initially be unfamiliar to some manufacturers, FDA believes most manufacturers' existing quality systems would need only minimal modification to bring them into compliance, if they are not already. FDA notes that IT companies selling equipment marketed for general IT use and not marketed for MDDS intended uses would not be subject to MDDS regulation, whether or not the product may be used in an MDDS application. FDA reiterates that the cost of complying with QS and MDR regulations is not a burden imposed by this rulemaking. These are burdens that manufacturers already incurred, notwithstanding FDA's exercise of enforcement discretion with regard to manufacturers of MDDS devices.

FDA's initial estimate of a one-time cost to comply with FDA's QS and MDR regulations assumes that manufacturers already have quality practices in place, including complaint-handling systems. FDA is not aware of any MDDS manufacturers lacking good business practices, including quality systems. Nevertheless, FDA cannot be sure of the extent to which all manufacturers have in place quality systems that can be easily modified to meet the requirements of QS and MDR regulations. Costs to a manufacturer would depend on the state of its quality systems, but would likely be less than $20,000 for the manufacturer to bring its quality system into compliance. Total costs could exceed $20,000 if the manufacturer also needed to hire a full time employee to manage the quality system. If a firm does not have any quality system, FDA estimates it would incur a one-time cost of less than $20,000 to establish the appropriate procedures, and would then likely need to hire a full time employee to manage the quality system. Comments to the proposed rule estimated an additional employee with regulatory compliance subject matter expertise to cost $143,000 annually, including salary and benefits. The estimated cost to a firm without a quality system would therefore be an initial amount up to $20,000 to establish the system and then $143,000 annually thereafter. Of course, these would not be burdens associated with this rulemaking; they are existing burdens that a manufacturer already faces notwithstanding FDA's decision to exercise enforcement discretion up to this point.

(Comment 4) A comment claimed that the exclusion of decision support functionality from MDDSs would place a large number of devices into class II, increasing the regulatory cost to industry.

(Response) FDA disagrees with this comment. This final rule will not change the classification of any devices other than MDDSs, and serves only to reduce the statutory and regulatory burdens associated with devices in the MDDS classification.

(Comment 5) A comment asked that FDA conduct an analysis of the impact of the proposed rule on existing MDDS manufacturers, including an assessment of risks and benefits and the costs of compliance.

(Response) This analysis considers the impact of the rule on MDDS manufacturers, and we have considered the comments received on this topic. As previously discussed, this final rule will move MDDS devices from class III to class I, and thus to a less costly set of requirements. As a result, this action is relieving manufacturers of burdens they would otherwise bear.

Through this final rule, FDA will reclassify MDDS devices from the class III default to class I. The application of general controls, including the software design controls in part 820, will be consistent with the principle of applying the least degree of regulatory control necessary to provide reasonable assurance of safety and effectiveness. The application of this lowest level of regulatory oversight will be consistent with the treatment of other devices with similar risk profiles. Software used to store, transmit, and communicate patient medical data, such as LISs and Medical Image Communication Systems, is typically classified into class I.

FDA has already recognized that the class III requirements are not necessary for ensuring the safety and effectiveness of MDDS devices and has been exercising enforcement discretion with MDDS device manufacturers. These firms have not been required to submit PMAs or meet other requirements typically required of manufactures of class III devices. The Agency believes all or nearly all firms in this industry have in place good business practices, including quality systems. If FDA were to discontinue enforcement discretion, most firms would comply with the class I provisions.

C. Cost of the Final Rule

This final rule is deregulatory. Device manufacturers currently subject to class III requirements will be subject to the less burdensome requirements for the makers of class I devices. Of course, changing the device classification may not have any financial impact on the practices of MDDS manufacturers if FDA were to continue its practice of enforcement discretion and to the extent such manufacturers are not already complying with the class III requirements. For the purposes of this analysis, however, we recognize that continued exercise of enforcement discretion will not be permanent. The regulatory alternatives are therefore the class III, class II, or class I controls, enforced by the Agency consistent with the FD&C Act. This final rule will re-classify MDDS devices as class I, which will reduce the applicable regulatory requirements.

Manufacturers of class I devices are required to follow general control requirements, which include: (1) Register and list their MDDS devices with the Agency, (2) conform to applicable medical device current good manufacturing practice requirements (part 820), and (3) comply with MDR requirements (part 803). This final rule exempts MDDS devices from premarket notification unless they exceed the limitations on 510(k) exemptions found in § 880.9.

D. Registration and Listing

The majority of MDDS manufacturers will incur a cost to register and list their devices with the Agency. We estimate this burden to be less than 1 hour per year for manufacturers familiar with this requirement, and up to 2 hours per year for manufacturers not currently producing any FDA-regulated devices (and therefore unfamiliar with the requirement). Manufacturers will also face user fees of $2,179 in fiscal year (FY) 2011 to register and list their devices with the Agency. These fees will rise to $2,364 in 2012. These fees do not represent a cost imposed by this final rule, but a cost that manufacturers may not have yet incurred because of FDA's practice of enforcement discretion with manufacturers of MDDS devices.

E. Current Good Manufacturing Practices (CGMP)/QS Regulation/MDR Compliance

Based on experience with the MDDS and similar devices, FDA believes that most manufacturers of these devices already have quality systems in place as part of good business practices. Good

quality systems would include complaint-handling procedures. FDA's QS requirements are flexible and FDA believes that these manufacturers will be able to conform their systems to FDA requirements with little difficulty or cost. Manufacturers are already required to report to FDA whenever they learn that their device may have caused or contributed to a death or serious injury to a patient. The costs of complying with these requirements will be relatively small, but will vary depending on the number and nature of the devices manufactured and the state of the firm's existing quality system. Based on our understanding that the industry generally has in place measures to ensure quality, we believe most firms will be able to adapt their systems to meet FDA's QS and MDR regulations for not more than $20,000. This cost would not be imposed by this final rule; it is an existing burden that manufacturers may not have fully incurred because of FDA's exercise of enforcement discretion with manufacturers of MDDSs.

Because manufacturers have not been required to register and list, we cannot be positive all firms have existing measures to ensure quality, and we cannot rule out the possibility that some manufacturers will face greater costs. If a manufacturer has no quality system in place, we estimate that it would cost less than $20,000 to establish a quality system plus the annual cost of a full-time employee to manage such a system. Comments to the proposed rule estimated the cost of such an employee, including benefits, to be $143,000 per year.

F. Premarket Notification

With the issuance of this final rule and the classification of MDDSs into class I, a manufacturer of an MDDS would not need to comply with the PMA requirement that applies to class III devices or submit a premarket notification. For those MDDSs that exceed the limitations on 510(k) exemptions found in § 880.9, the required premarket notification for an MDDS will be far less complex than submission of a PMA. The cost of preparing and submitting such a notification would be several thousand dollars. The user fees for a premarket notification would be $4,348 for FY 2011, increasing to $4,717 in 2012. In contrast, the cost of submitting a PMA can reach $1,000,000, plus user fees of an additional $236,298 in FY 2011, increasing to $256,384 in FY 2012.

In summary, this device reclassification final rule will substantially reduce an existing legal burden on the manufacturers of MDDSs. The burden of compliance with the general controls provisions applicable to the manufacturers of all class I devices is attributable to statutory requirements that already apply but in the past have not been enforced for MDDSs. Because continued exercise of enforcement discretion may not be a viable long-term regulatory alternative, this final rule reduces the ultimate regulatory burden for manufacturers of MDDSs. Considering the cost of submitting a PMA plus the relevant user fees, the reduction could be $1,000,000 per device.

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because reclassification of the affected devices from class III to class I will relieve manufacturers of the cost of complying with the premarket approval requirements of section 515 of the FD&C Act (21 U.S.C. 360e), the Agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

VII. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that 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. Accordingly, the Agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

VIII. Paperwork Reduction Act of 1995

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

List of Subjects in 21 CFR Part 880

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 880 is amended as follows:

PART 880—GENERAL HOSPITAL AND PERSONAL USE DEVICES

■ 1. The authority citation for 21 CFR part 880 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Section 880.6310 is added to subpart G to read as follows:

§ 880.6310 Medical device data system.

(a) *Identification.* (1) A medical device data system (MDDS) is a device that is intended to provide one or more of the following uses, without controlling or altering the functions or parameters of any connected medical devices:

(i) The electronic transfer of medical device data;

(ii) The electronic storage of medical device data;

(iii) The electronic conversion of medical device data from one format to another format in accordance with a preset specification; or

(iv) The electronic display of medical device data.

(2) An MDDS may include software, electronic or electrical hardware such as a physical communications medium (including wireless hardware), modems, interfaces, and a communications protocol. This identification does not include devices intended to be used in connection with active patient monitoring.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9.

Dated: February 9, 2011.

Nancy K. Stade,

Deputy Director for Policy, Center for Devices and Radiological Health.

[FR Doc. 2011–3321 Filed 2–14–11; 8:45 am]

BILLING CODE 4160–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4022

Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends Pension Benefit Guaranty Corporation's regulation on Benefits Payable in Terminated Single-Employer Plans to prescribe interest assumptions under the regulation for valuation dates in March 2011. Interest assumptions are also published on PBGC's Web site (*http://www.pbgc.gov*).

DATES: Effective March 1, 2011.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: PBGC's regulation on Benefits Payable in Terminated Single-Employer Plans (29 CFR part 4022) prescribes actuarial assumptions—including interest assumptions—for paying plan benefits under terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974.

PBGC uses the interest assumptions in Appendix B to Part 4022 to determine whether a benefit is payable as a lump sum and to determine the amount to pay. Appendix C to Part 4022 contains interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using PBGC's historical methodology. Currently, the rates in Appendices B and C of the benefit payment regulation are the same.

The interest assumptions are intended to reflect current conditions in the financial and annuity markets. Assumptions under the benefit payments regulation are updated monthly. This final rule updates the benefit payments interest assumptions for March 2011.[1]

The March 2011 interest assumptions under the benefit payments regulation will be 2.50 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. In comparison with the interest assumptions in effect for February 2011, these interest assumptions are unchanged.

PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the payment of benefits under plans with valuation dates during March 2011, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. *See* 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

In consideration of the foregoing, 29 CFR part 4022 is amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 209, as set forth below, is added to the table.

Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	
209	3–1–11	4–1–11	2.50	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 209, as set forth below, is added to the table.

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	
209	3–1–11	4–1–11	2.50	4.00	4.00	4.00	7	8

[1] Appendix B to PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes interest assumptions for valuing benefits under terminating covered single-employer plans for purposes of allocation of assets under ERISA section 4044. Those assumptions are updated quarterly.

Issued in Washington, DC, on this 8th day of February 2011.

Vincent K. Snowbarger,

Deputy Director for Operations, Pension Benefit Guaranty Corporation.

[FR Doc. 2011–3403 Filed 2–14–11; 8:45 am]

BILLING CODE 7709–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2010–1093]

RIN 1625–AA08

Special Local Regulation; Mavericks Surf Competition, Half Moon Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation on certain navigable waters of Half Moon Bay in support of the Mavericks Surf Competition. This special local regulation is necessary to ensure the safety of participants and spectators during the event. Entry into this zone is prohibited unless authorized by the Captain of the Port San Francisco, CA.

DATES: This rule is effective from February 15, 2011 through February 28, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2010–1093 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–1093 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 Lieutenant Junior Grade Liezl Nicholas at (415) 399–7436, or e-mail *D11-PF-MarineEvents@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 immediate action is needed to provide for the safety of life and property on navigable waters. Because of the dangers posed by the surf conditions during the Mavericks Surf Competition, the special local regulation is necessary to provide for the safety of event participants, spectators, spectator craft, and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay in the effective date of this rule would expose mariners to the dangers posed by the surf conditions during the Mavericks Surf Competition.

Basis and Purpose

The Mavericks Surf Competition is a one day "Big Wave" surfing competition consisting of the top 24 big wave surfers and only occurs when 15–20 foot waves are sustained for over 24 hours and are combined with mild easterly winds of no more than 5–10 knots. Because weather conditions are integral to the occurrence of the Maverick Surf Competition, the exact date of the event cannot be determined in advance. The rock and reef ridges that make up the sea floor of the Pillar Point area combined with just the right weather conditions create the large waves that Mavericks is known for. Due to the treacherous terrain and un-navigable areas surrounding Pillar Point, the Coast Guard is establishing a special local regulation within a 1,000 yard radius of Pillar Point that restricts navigation near the surf competition area and neighboring treacherous terrain and identifies the safest area for spectator viewing on the water.

Discussion of Rule

The Coast Guard is establishing a special local regulation within a 1,000 yard radius of Pillar Point in Half Moon Bay. The Mavericks Surf Competition will occur in the vicinity of Pillar Point in the navigable waters of Half Moon Bay, and the spectator viewing area will be located inside the following coordinates: 37°29.265′ N 122°30.165′ W, 37°29.248′ N 122°29.978′ W, and 37°29.406′ N 122°30.081′ W (NAD 83). Competitors, participating agencies (Coast Guard, San Mateo Police Marine Patrol, Pillar Point Harbor Patrol, San Mateo Fire Marine Patrol) and the public (to include but not restricted to: Commercial sightseeing vessels, photographer platforms and recreational boaters) will be given 48 hours notice prior to the start of the one day competition. This action is necessary to ensure the safety of participants and spectators during the event. During the enforcement period, unauthorized persons (persons not classified as spectators, participants or participating agencies) or vessels are prohibited from transiting through, anchoring, blocking, or loitering in the regulated area without permission of the Captain of the Port (COTP) or their designated representative.

The effect of the temporary special local regulation will be to regulate navigation in the vicinity of Pillar Point while the Mavericks Surf Competition is taking place. Except for persons or vessels authorized by the Coast Guard Patrol Commander (persons classified as spectators, participants or participating agencies), no person or vessel may transit within the bounds of the regulated area. These regulations are needed to keep spectators and vessels a safe distance away from the event participants and the un-navigable waters surrounding Pillar Point and to ensure the safety of participants, spectators, and transiting vessels.

The Coast Guard will enforce the temporary special local regulation from 8 a.m. to 3 p.m. on a date to be determined. Notification of the enforcement of the special local regulation will be provided to the public via broadcast notice to mariners, as well as through advertising on local media.

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 rule regulates navigation in the waters encompassed by the regulated area, the effect of this rule will not be significant. The entities most likely to be affected are pleasure craft engaged in recreational activities. In addition, the rule will only regulate navigation for a limited time. Finally, the Public Broadcast Notice to Mariners will notify the users of local waterway to ensure that the regulated area will result in minimum impact.

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: owners and operators of pleasure craft engaged in recreational activities and sightseeing intending to transit the area during the period of enforcement. This rule will not have a significant economic impact on a substantial number of small entities for several reasons: (i) This rule will encompass only a small portion of the waterway for a limited period of time; (ii) vessel traffic can pass safely around the area; (iii) vessels engaged in recreational activities and sightseeing have ample space outside of the affected areas of Half Moon Bay, CA to engage in these activities; and (iv) the maritime public will be advised in advance of this regulated area via Broadcast Notice to Mariners.

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 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 effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This 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 0023.1 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human

environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction. This rule involves establishing a temporary special local regulation.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—REGATTAS AND MARINE PARADES

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.

■ 2. Add § 100.T11–388 to read as follows:

§ 100.T11–388 Special Local Regulation; Mavericks Surf Competition, Half Moon Bay, CA.

(a) *Regulated area.* (1) This temporary special local regulation is established for the waters located within a 1,000 yard radius of Pillar Point during the Mavericks Surf Competition.

(2) The spectator viewing area is located inside the following coordinates: 37°29.265′ N 122°30.165′ W, 37°29.248′ N 122°29.978′ W, and 37°29.406′ N 122°30.081′ W (NAD 83).

(b) *Enforcement Period.* On the date of the event, as determined by weather conditions, the special local regulation will be enforced from 8 a.m. to 3 p.m.

(c) *Special local regulations.* (1) Entry into, transiting, or anchoring within the regulated area as defined in (a)(1) of this section is prohibited unless authorized by the Captain of the Port San Francisco (COTP) or a designated representative. The regulated area is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(2) Persons or vessels that have been authorized to enter the area must comply with all directions given to them by the COTP or a designated representative.

(3) Spectators wishing to view the competition on the water may only do so from the spectator viewing area defined in paragraph (a)(2) of this section.

(4) Persons or vessels may request permission to enter the regulated area on VHF–16 or through the 24-hour Command Center telephone at (415)–399–3547.

(5) "Designated representative" means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel, and a Federal, State, or local officer designated by or assisting the COTP in the enforcement of the special local regulation.

(d) *Effective period.* This section is effective during the Mavericks Surf Competition which is a one day competition scheduled to take place when organizers of the competition deem surf conditions to be appropriate on a day between January 26, 2011 and February 28, 2011.

Dated: January 25, 2011.

J.W. Jewess,

Captain, U.S. Coast Guard, Acting Captain of the Port San Francisco.

[FR Doc. 2011–3357 Filed 2–14–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2011–0067]

Drawbridge Operation Regulation; Gulf Intracoastal Waterway, New Orleans Harbor, Inner Harbor Navigation Canal, New Orleans, Orleans Parish, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the SR 39 (Judge Seeber/Claiborne Avenue) vertical lift bridge across the Inner Harbor Navigational Canal, mile 0.9, (Gulf Intracoastal Waterway mile 6.7 East of Harvey Lock), at New Orleans, Orleans Parish, Louisiana. This deviation is necessary to replace all of the deck plating and stringers on the bridge. This deviation allows the bridge to remain closed during the day except for two (2) scheduled openings per day during the entire length of the closure.

DATES: This deviation is effective from 6:30 a.m. on Saturday, April 2, 2011 until 5:45 p.m. on Saturday, May 21, 2011.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2010–0935 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0935 in the "Keyword" box and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Jim Wetherington, Bridge Specialist, Eighth Coast Guard District Bridge Branch, US Coast Guard; telephone 504–671–2128 or e-mail *james.r.wetherington@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: In order to perform necessary maintenance, the Louisiana Department of Transportation and Development has requested a temporary deviation from the published regulation for the SR 39 (Judge Seeber/Claiborne Avenue) vertical lift bridge across the Inner Harbor Navigational Canal, mile 0.9, (GIWW mile 6.7 EHL). The bridge provides 40 feet of vertical clearance when closed above mean high water, and 156 feet above MHW in the open-to-navigation position. Currently, under 33 CFR 117.458(a), the draw of the bridge shall open on signal; except that, from 6:30 a.m. to 8:30 a.m. and 3:30 p.m. to 5:45 p.m. Monday through Friday, the draw need not be open for the passage of vessels. The draw shall open at any time for a vessel in distress.

This deviation allows the bridge to remain closed to navigation from 6:30 a.m. until 5:45 p.m. from April 2, 2011 through May 21, 2011. However, during these times, the bridge will open for the passage of vessels at 10 a.m. and 2 p.m. daily. From 5:45 p.m. until 6:30 a.m., the bridge will remain in the open-to-navigation position or will open on signal. Exact times and dates for the closures will be published in the Local Notice to Mariners and broadcast via the Coast Guard Broadcast Notice to Mariners system.

Navigation on the waterway consists mainly of tugs with tows and ships. The Coast Guard has coordinated the closure with waterway users, industry, and other Coast Guard units. These dates and this schedule were chosen to minimize the significant effects on vessel traffic; however, vessels that can pass under the bridge in the closed-to-navigation position can do so any anytime. The bridge will not be able to open for emergencies.

The bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 3, 2011.

David M. Frank,

Bridge Administrator.

[FR Doc. 2011–3356 Filed 2–14–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–0794]

RIN 1625–AA11

Regulated Navigation Area; Hudson River South of the Troy Locks, NY

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a Regulated Navigation Area (RNA) on the navigable waters of the Hudson River in New York, south of the Troy Locks. This action is necessary to promote navigational safety, provide for the safety of life and property, and facilitate the reasonable demands of commerce. This action will impose restrictions on vessels operating within the waters of the Hudson River south of the Troy Locks when ice is a threat to navigation.

DATES: This rule is effective in the CFR on February 15, 2011. This rule is effective with actual notice for purposes of enforcement on January 20, 2011.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2010–0794 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0794 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Chief Warrant Officer Kary Moss, Coast Guard Sector New York Waterways Management Division; telephone 718–354–4117, e-mail *Kary.L.Moss@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

On December 10, 2010, we published a notice of proposed rulemaking (NPRM) entitled "Regulated Navigation Area; Hudson River South of the Troy Locks, NY" in the **Federal Register** (75 FR 76943). We received no comments on the proposed rule. A public meeting was not requested and none was held.

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**. The 30-day delay would be contrary to the public interest. As of January 20, 2011, ice formations in the Hudson River require the commencement of Coast Guard icebreaking operations. Without immediate implementation of this rule, the Coast Guard will not be able to prevent underpowered tugs from transiting through identified, unsafe ice conditions. This could lead to these tugs with barges becoming beset in the ice and further delaying the delivery of home heating oil to communities along the Hudson River and within the region, as well as posing a safety threat to the environment and a potential hazard to navigation.

Basis and Purpose

The legal basis for this rule is 33 U.S.C. 1221–1236; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define RNAs.

Historically ice has been an impediment to navigation during certain times of the year on the navigable waters of the Hudson River south of the Troy Locks. West Point, Crum Elbow, Esopus Meadows, Stuyvesant Anchorage, Hudson Anchorage, Silver Point, and Hyde Park are all natural choke points on the Hudson River where ice buildup has the potential to severely restrict vessel traffic.

There are several situations faced by vessels during severe winter conditions that can place the vessels, passengers, and crew in great danger including being beset in the ice and ice accretion, where ice forms on the superstructure and decks of transiting vessels thereby affecting the vessel's stability. Ice may also cause significant damage to propellers, rudders, and hull plating.

The formation of ice on the Hudson River is subject to many variables and is not consistent from year to year. During a moderate or severe winter, the frozen waterways may impede a vessel's ability to maneuver. Once ice build-up begins it can affect the transit of vessels on the navigable waterways. In addition a vessel's watertight integrity may also be compromised by ice abrasion and ice pressure on the vessel's hull.

Ice floes on the navigable waterways may also cause visual aids to navigation to become submerged, destroyed, or moved off station. Ice conditions on the navigable waterways may create hazardous conditions in which the operations of certain vessels become unsafe.

Previous ice seasons have shown that vessels with less than 3000 horsepower, while engaged in towing operations, have significant difficulty transiting the Hudson River in locations where ice thickness is on average eight inches or greater. This difficulty in transiting the Hudson River during ice buildup poses a safety threat to the environment and a potential hazard to navigation.

It sometimes becomes necessary to impose operating restrictions to ensure the safe navigation of vessels. During the 2009–2010 ice navigation season the Coast Guard promulgated a Temporary Final Rule that established an RNA for that period. That rule established restrictions similar to those that the Coast Guard establishes in this rule. This rule allows the Coast Guard to restrict and manage vessel movement when hazardous ice conditions exist within a specified area of the Hudson River.

Background

The Regulated Navigation Area is intended to restrict vessels with less than 3000 horsepower (HP) engaged in towing operations from operating on the Hudson River south of the Troy Locks when ice thickness is on average eight inches or greater, unless authorized by the Captain of the Port (COTP) New York or a designated representative.

The COTP New York will notify mariners of the location and thickness of the ice as well as any restrictions via marine broadcast, Local Notices to Mariners, and VTS New York. For the purpose of this rule, the definition of horsepower in 46 CFR 10.107 applies.

When the ice thickness reaches an average of eight inches or greater on the Hudson River along reported routes, vessels of less than 3,000 HP engaged in towing operations will not be authorized to transit unless in conjunction with scheduled Coast Guard icebreaking operations in the

area, or operating with an assist tug or as part of a convoy, or specifically authorized by the COTP New York.

Operators of vessels that do not meet the criteria of the operating restrictions, but who believe that they have the capability to operate in ice safely, may seek a waiver from the COTP New York to continue operating. Waivers may be requested by calling telephone number (718) 354–4356 or on VHF channel 13 or 16.

Discussion of Comments and Changes

The Coast Guard received no comments on the proposed rulemaking. No changes were made to the Final Rule.

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.

The Coast Guard's implementation of the Regulated Navigation Area will only be enforced at the location on the navigable waters of the Hudson River south of the Troy Locks where ice conditions on average are eight inches or greater, and only restrict vessels that are less than 3,000 horsepower while engaged in towing operations.

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 and operators of tugs with engines below 3,000 total horsepower attempting to transit the Hudson River in cold weather months when ice thickness is on average eight inches or greater.

This RNA will not have a significant economic impact on a substantial number of small entities for the following reasons: Tugs with less than 3,000 total horsepower have historically been unable to transit the Hudson River when ice thickness is on average eight inches or greater. Operators have generally taken these vessels out of service or use vessels that are capable of operating in such conditions.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their

regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves establishing a Regulated Navigation Area restricting tugs with less than 3,000 total horsepower from transiting the Hudson River when ice thickness is on average eight inches or greater. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.165 to read as follows:

§ 165.165 Regulated Navigation Area; Hudson River South of the Troy Locks, NY.

(a) *Regulated navigation area.* All navigable waters of the Hudson River south of the Troy Locks.

(b) *Definitions.* The following definitions apply to this section:

(1) *Designated representative* means any Coast Guard commissioned, warrant, or petty officer, or a Federal, State, or local law enforcement officer designated by or assisting the Captain of the Port (COTP) New York.

(2) *Horsepower (HP)* means the total maximum continuous shaft horsepower of all the vessel's main propulsion machinery.

(c) *Applicability.* This section applies to tugs with less than 3,000 horsepower when engaged in towing operations.

(d) *Regulations.* (1) Except as provided in paragraph (c)(3) of this section, vessels less than 3,000 horsepower while engaged in towing operations are not authorized to transit that portion of the Hudson River south of the Troy Locks when ice thickness on average is eight inches or greater.

(2) All Coast Guard assets enforcing this Regulated Navigation Area can be contacted on VHF marine band radio, channel 13 or 16. The COTP can be contacted at (718) 354–4356, and the public may contact the COTP to suggest changes or improvements in the terms of this Regulated Navigation Area.

(3) All persons desiring to transit through a portion of the regulated area that has operating restrictions in effect must contact the COTP at telephone number (718) 354–4356 or on VHF channel 13 or 16 to seek permission prior to transiting the affected regulated area.

(4) The COTP will notify the public of any changes in the status of this Regulated Navigation Area by Marine Safety Information Broadcast on VHF–FM marine band radio, channel 22A (157.1 MHZ).

Dated: January 20, 2011.

Daniel A. Neptun,

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

[FR Doc. 2011–3351 Filed 2–14–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0010]

RIN 1625–AA00

Safety Zone; Miami International Triathlon, Bayfront Park, Miami, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the waters east of Bayfront Park for the Miami International Triathlon in Miami, Florida. The triathlon is scheduled to take place on March 20, 2011. The temporary safety zone is necessary for the safety of triathlon participants, participant vessels, and the general public during the swim portion of the triathlon. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless specifically authorized by the Captain of the Port Miami or a designated representative.

DATES: This rule is effective from 7 a.m. until 9:30 a.m. on March 20, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0010 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–0010 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 Lieutenant Paul A. Steiner, Sector Miami Prevention Department, Coast Guard; telephone 305–535–8724, e-mail *Paul.A.Steiner@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 the Coast Guard did not receive notice of the triathlon with sufficient time to publish an NPRM and to receive public comments prior to the triathlon. Any delay in the effective date of this rule would be contrary to the public interest because immediate action is needed to minimize the potential danger to triathlon participants as well as the general public.

Background and Purpose

On March 20, 2011, Paramount Productions LLC is hosting the Miami International Triathlon. This triathlon includes a 0.9 mile swim, which will take place in the waters east of Bayfront Park in Miami, Florida. Approximately 1,500 individuals are scheduled to compete in the triathlon. This safety zone is necessary to protect triathlon participants, participant vessels, and the general public during the effective period.

Discussion of Rule

The safety zone encompasses certain navigable waters east of Bayfront Park in Miami, Florida. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless specifically authorized by the Captain of the Port Miami or a designated representative. The safety zone will be in effect from 7 a.m. until 9:30 a.m. on March 20, 2011.

Regulatory Analyses

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

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this rule to be so minimal that a full regulatory evaluation is unnecessary. This rule may have some impact on the public, but these potential impacts will be minimal for the following reasons: (1) The rule will be in effect for less than three hours; (2) vessel traffic in the area during the effective period will be minimal; (3) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the safety zone without authorization from the Captain of the Port Miami or a designated representative, they will be able to operate in the surrounding area during the effective period; (4) persons and vessels may still enter, transit through, anchor in, or remain within the safety zone if authorized by the Captain of the Port Miami or a designated representative; (5) advance notification will be made to the local maritime community via broadcast notice to mariners; and (6) the triathlon host will distribute informational materials in advance of the triathlon.

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 may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within the waters east of Bayfront Park that are encompassed within the safety zone from 7 a.m. until 9:30 a.m. on March 20, 2011. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

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 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 effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health

Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

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

This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves establishing a temporary safety zone, as described in paragraph (34)(g), that will be in effect for less than three hours. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add a temporary § 165.T07–0010 to read as follows:

§ 165.T07–0010 Safety Zone; Miami International Triathlon, Bayfront Park, Miami, FL.

(a) *Regulated area.* The following regulated area is a safety zone. All waters east of Bayfront Park encompasses within an imaginary line connecting the following points: Starting at Point 1 in position 25°46′36″ N, 80°11′04″ W; thence east to Point 2 in position 25°46′36″ N, 80°10′51″ W; thence southeast to Point 3 in position 25°46′25″ N, 80°10′44″ W; thence southwest to Point 4 in position 25°46′19″ N, 80°11′05″ W; thence north back to origin. All coordinates are North American Datum 1983.

(b) *Definition.* The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port Miami in the enforcement of the regulated area.

(c) *Regulations.*

(1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Miami or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Miami via telephone at 305–535–4472, or a designated representative via VHF radio on channel 16, to seek permission. If permission to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such permission must comply with the instructions of the Captain of the Port Miami or a designated representative.

(3) The Coast Guard will provide notice of the regulated area via broadcast notice to mariners and by on-scene designated representatives.

(d) *Effective Date.* This rule is effective from 7 a.m. until 9:30 a.m. on March 20, 2011.

Dated: January 26, 2011.

G.J. Depinet,

Captain, U.S. Coast Guard, Acting Captain of the Port Miami.

[FR Doc. 2011–3323 Filed 2–14–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 148

[USCG–2009–0091]

RIN 1625–AB47

Bulk Solid Hazardous Materials: Harmonization With the International Maritime Solid Bulk Cargoes (IMSBC) Code

AGENCY: Coast Guard, DHS.

ACTION: Rule; information collection approval.

SUMMARY: On October 19, 2010, the Coast Guard amended its regulations governing the carriage of solid hazardous materials in bulk to allow use of the IMSBC Code as an equivalent form of compliance. The amendment triggered information collection requirements affecting the Special Permits issued by the Coast Guard that allow the carriage of hazardous bulk solid materials not addressed in the amended regulations. This notice announces that the collection of information has been approved by the Office of Management and Budget

(OMB) and may now be enforced. The OMB control number is 1625–0025.

DATES: The collection of information requirement under 46 CFR part 148 will be enforced beginning February 15, 2011.

FOR FURTHER INFORMATION CONTACT: If you have questions about this document, contact Mr. Richard Bornhorst at 202–372–1426 or *Richard.C.Bornhorst@uscg.mil.* If you have questions about viewing the docket (USCG–2009–0091), call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: On January 1, 2011, compliance with the IMSBC Code became mandatory for all vessels subject to the International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended, that carry bulk solid cargoes other than grain. The final rule (75 FR 64586) allows use of the IMSBC Code as an alternate form of compliance with 46 CFR part 148, subject to conditions and limitations. The rule reduces the need for the current Special Permits for the carriage of certain solid hazardous materials in bulk.

The Coast Guard issues Special Permits as part of its mission to ensure maritime safety and facilitate U.S. commerce. To ensure that the carriage requirements imposed by the Special Permit are sufficient and that the permit holder is complying with the terms of the permit, the Coast Guard requires the submission of information concerning the history of shipments made under the terms of the Special Permit.

With the exception of this collection of information, the Bulk Solid Hazardous Materials: Harmonization With the International Maritime Solid Bulk Cargoes (IMSBC) Code rule became effective on January 1, 2011. Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), an agency may not conduct or sponsor a collection of information until the collection is approved by OMB. Accordingly, the preamble to the final rule stated that the Coast Guard would not enforce the collection of information requirements occurring under 46 CFR part 148 until the collection of information request was approved by OMB, and also stated that the Coast Guard would publish a notice in the **Federal Register** announcing that OMB approved and assigned a control number for the requirement.

The Coast Guard submitted the information collection request to OMB for approval in accordance with the Paperwork Reduction Act of 1995. On January 28, 2011, OMB approved the collection of information and assigned the collection OMB Control Number 1625–0025 entitled "Carriage of Bulk Solids Requiring Special Handling—46 CFR 148". The approval for this collection of information expires on January 31, 2014. A copy of the OMB notice of action is available in our online docket (USCG–2009–0091) at *http://www.regulations.gov*.

Dated: February 7, 2011.

F.J. Sturm,

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

[FR Doc. 2011–3322 Filed 2–14–11; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 10–51; FCC 10–88]

Structure and Practices of the Video Relay Service Program

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with the Commission's *Structure and Practices of the Video Relay Service Program,* Declaratory Ruling and Order (*Order*). This notice is consistent with the *Order,* which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of those rules.

DATES: 47 CFR 64.604 (c)(5)(iii)(I), published at 75 FR 39859, July 13, 2010, is effective February 15, 2011.

FOR FURTHER INFORMATION CONTACT: Gregory Hlibok, Disability Rights Office, Consumer and Governmental Affairs Bureau, at (202) 559–5158 (voice and videophone), or e-mail: *Gregory.Hlibok@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that, on January 27, 2011, OMB approved, for a period of three years, the information collection requirements contained in the Commission's *Order,* FCC 10–88, published at 75 FR 39859, July 13, 2010. The OMB Control Number is 3060–1145. The Commission publishes this notice as an announcement of the effective date of the rules. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554. Please include the OMB Control Number, 3060–1145, in your correspondence. The Commission will also accept your comments via e-mail; please send them to *PRA@fcc.gov.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on January 27, 2011, for the information collection requirements contained in the Commission's rules at 47 CFR 64.604 (c)(5)(iii)(I).

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act, that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–1145.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1145.

OMB Approval Date: January 27, 2011.

OMB Expiration Date: January 31, 2014.

Title: Structure and Practices of the Video Relay Service Program, CG Docket No. 10–51.

Form Number: N/A.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 13 respondents; 169 responses.

Estimated Time per Response: .017 hours (1 minute average per response).

Frequency of Response: Annual and monthly reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is found at sections 1, 4, 225, and 303(r)

of the Communications Act of 1934, as amended (Act), 47 U.S.C. 151, 154, 225, and 303(r).

Total Annual Burden: 3 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information (PII) from individuals.

Needs and Uses: In document FCC 10–88 the Commission finds good cause to adopt an interim rule requiring the Chief Executive Officer, Chief Financial Officer, or other senior executive of a Telecommunications Relay Service (TRS) provider submitting minutes to the Interstate TRS Fund (Fund) administrator for compensation on a monthly basis to certify, under penalty of perjury, that the submitted minutes were handled in compliance with section 225 of the Act and the Commission's rules and orders. Also in this document, the Commission requires such an executive to certify, under penalty of perjury, that cost and demand data submitted to the Fund administrator on an annual basis related to the determination of compensation rates or methodologies are true and correct. The explosive growth in the Fund in recent years and evidence of fraud against the Fund, as evidenced by recent indictments and guilty pleas from call center managers and employees admitting to defrauding the Fund of tens of millions of dollars, require the Commission to take immediate steps in preserving the Fund to ensure the continued availability of TRS. By requiring providers to be more accountable for their submissions, the Commission takes necessary, affirmative steps to preserve the TRS Fund.

Federal Communications Commission.

Bulah P. Wheeler,

Deputy Manager, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–3262 Filed 2–14–11; 8:45 am]

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Proposed Rules

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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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0218; Directorate Identifier 92–ANE–56–AD]

RIN 2120–AA64

Airworthiness Directives; Lycoming Engines, Fuel Injected Reciprocating Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede an existing airworthiness directive (AD) that applies to certain fuel injected reciprocating engines manufactured by Lycoming Engines. The existing AD currently requires inspection, replacement if necessary, and proper clamping of externally mounted fuel injector fuel lines. That AD also exempts engines that have a Maintenance and Overhaul Manual with an Airworthiness Limitations Section that requires inspection and replacement, if necessary, of externally mounted fuel injector lines. This proposed AD would require the same actions. Since we issued that AD, Lycoming Engines revised their Mandatory Service Bulletin (MSB) to add engine models requiring inspections. We are proposing this AD to prevent failure of the fuel injector fuel lines that would allow fuel to spray into the engine compartment, resulting in an engine fire.

DATES: We must receive comments on this proposed AD by April 1, 2011.

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 AD, contact Lycoming Engines, 652 Oliver Street, Williamsport, PA 17701, or go to *http://www.lycoming.textron.com*. You may review copies of the referenced service information at the FAA, Engine Certification Office, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call (781) 238–7125.

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: Norm Perenson, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine & Propeller Directorate, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7337; fax: 516–794–5531; e-mail: *Norman.perenson@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2007–0218; Directorate Identifier 92–ANE–56–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

On June 24, 2008, we issued AD 2008–14–07, Amendment 39–15602 (73 FR 39574), for certain fuel injected reciprocating engines manufactured by Lycoming Engines. That AD requires inspection, replacement if necessary, and proper clamping of externally mounted fuel injector fuel lines. Some of the clamps are difficult to install on the fuel injector lines and then to the engine, resulting in support clamps being omitted during field overhaul or repair. Lines not clamped correctly are subject to engine vibration and wear. That AD resulted from Lycoming Engines revising their MSB to add engine models requiring inspection, and from the need to clarify a repetitive inspection compliance time. We issued that AD to prevent failure of the fuel injector fuel lines that would allow fuel to spray into the engine compartment, resulting in an engine fire.

Actions Since Existing AD Was Issued

Since we issued AD 2008–14–07, Lycoming Engines revised their MSB to add engine models requiring inspection, replacement if necessary, and proper clamping of externally mounted fuel injector fuel lines. They also listed some of the physical damages that would reject a tube. Based on that MSB revision, we would require the inspection in this proposed AD supersedure to meet all conditions specified in MSB No. 342F, dated June 4, 2010. In addition, we learned that two engines listed in AD 2008–14–07 do not exist. They are the IO–360–C2G6 and the TIO–540AE1A5, so we removed them from this proposed AD.

Relevant Service Information

We reviewed Lycoming Engines MSB No. 342F, dated June 4, 2010. The MSB describes procedures for inspecting, and if necessary replacing the fuel injector fuel lines. That MSB supersedes Textron Lycoming MSB No. 342E, 342D, MSB No. 342C, MSB No. 342B, Supplement No. 1 to MSB 342B, MSB 342A, and MSB 342.

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 these same type designs.

Proposed AD Requirements

This proposed AD would retain all of the requirements of AD 2008–14–07. This proposed AD would add the LIO–360–M1A engine, as applicable.

Costs of Compliance

We estimate that this proposed AD affects 21,180 four-cylinder engines, 21,449 six-cylinder engines, and 256 eight-cylinder engines installed on aircraft of U.S. registry. We also estimate that it would take about 0.2 work-hour to inspect all lines on a four-cylinder engine, 0.5 work-hour to inspect all lines on a six-cylinder engine, and 0.7 work-hour to inspect all lines on an eight-cylinder engine. We also estimate that the average labor rate is $85 per work-hour. We do not anticipate any additional costs on U.S. operators, as the inspection would be done in conjunction with other work performed concurrently. We anticipate no parts to be required. Based on these figures, the total cost of the proposed AD to U.S. operators for one inspection of the fleet is $1,372,645.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that the proposed 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 removing airworthiness directive (AD) 2008–14–07, Amendment 39–15602 (73 FR 39574), and adding the following new AD:

Lycoming Engines (formerly Textron Lycoming Division, AVCO Corporation): Docket No. FAA–2007–0218; Directorate Identifier 92–ANE–56–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by April 1, 2011.

Affected ADs

(b) This AD supersedes AD 2008–14–07, Amendment 39–15602.

Applicability

(c) This AD applies to fuel injected reciprocating engines manufactured by Lycoming Engines that incorporate externally mounted fuel injection lines (engines with an "I" in the prefix of the engine model designation) as listed in the following Table 1:

TABLE 1—ENGINE MODELS AFFECTED

Engine	Model
AEIO–320	–D1B, –D2B, –E1B, –E2B.
AIO–320	–A1B, –B1B, –C1B.
IO–320	–B1A, –B1C, –C1A, –D1A, –D1B, –E1A, –E1B, –E2A, –E2B.
LIO–320	–B1A, –C1A.
AEIO–360	–A1A, –A1B, –A1B6, –A1D, –A1E, –A1E6, –B1F, –B2F, –B1G6, –B1H, –B4A, –H1A, –H1B.
AIO–360	–A1A, –A1B, –B1B.
HIO–360	–A1A, –A1B, –B1A, –C1A, –C1B, –D1A, –E1AD, –E1BD, –F1AD, –G1A.
IO–360	–A1A, –A1B, –A1B6, –A1B6D, –A1C, –A1D, –A1D6, –A2A, –A2B, –A3B6, –A3B6D, –B1B, –B1D, –B1E, –B1F, –B1G6, –B2F, –B2F6, –B4A, –C1A, –C1B, –C1C, –C1C6, –C1D6, –C1E6, –C1F, –C1G6, –F1A, –J1A6D, –M1B, –L2A, –M1A.
IVO–360	–A1A.
LIO–360	–C1E6, –M1A.
TIO–360	–A1B, –C1A6D.
IGO–480	–A1B6.
AEIO–540	–D4A5, –D4B5, –D4D5, –L1B5, –L1B5D, –L1D5.
IGO–540	–B1A, –B1C.

TABLE 1—ENGINE MODELS AFFECTED—Continued

Engine	Model
IO–540	–A1A5, –AA1A5, –AA1B5, –AB1A5, –AC1A5, –AE1A5, –B1A5, –B1C5, –C1B5, –C4B5, –C4D5D, –D4A5, –E1A5, –E1B5, –G1A5, –G1B5, –G1C5, –G1D5, –G1E5, –G1F5, –J4A5, –V4A5D, –K1A5, –K1A5D, –K1B5, –K1C5, –K1D5, –K1E5, –K1E5D, –K1F5, –K1H5, –K1J5, –K1F5D, –K1G5, –K1G5D, –K1H5, –K1J5D, –K1K5, –K1E5, –K1E5D, –K1F5, –K1J5, –L1C5, –M1A5, –M1B5D, –M1C5, –N1A5, –P1A5, –R1A5, –S1A5, –T4A5D, –T4B5, –T4B5D, –T4C5D, –V4A5, –V4A5D, –W1A5, –W1A5D, –W3A5D.
IVO–540	–A1A.
LTIO–540	–F2BD, –J2B, –J2BD, –N2BD, –R2AD, –U2A, –V2AD, –W2A.
TIO–540	–A1A, –A1B, –A2A, –A2B, –A2C, –AE2A, –AH1A, –AA1AD, –AF1A, –AF1B, –AG1A, –AB1AD, –AB1BD, –AH1A, –AJ1A, –AK1A, –C1A, –E1A, –G1A, –F2BD, –J2B, –J2BD, –N2BD, –R2AD, –S1AD, –U2A, –V2AD, –W2A.
TIVO–540	–A2A.
IO–720	–A1A, –A1B, –D1B, –D1BD, –D1C, –D1CD, –B1B, –B1BD, –C1B.

Engine models in Table 1 of this AD are installed on, but not limited to, Piper PA–24 Comanche, PA–30 and PA–39 Twin Comanche, PA–28 Arrow, and PA–23 Aztec; Beech 23 Musketeer; Mooney 20, and Cessna 177 Cardinal airplanes.

(d) This AD is not applicable to engines having internally mounted fuel injection lines, which are not accessible. Those engine models are not included in Table 1 of this AD.

(e) This AD is not applicable to engines that have a Maintenance and Overhaul Manual with an Airworthiness Limitations Section that requires inspection of externally mounted fuel injector lines. Those engine models are not included in Table 1 of this AD.

Unsafe Condition

(f) This AD was prompted by Lycoming Engines revising their Mandatory Service Bulletin (MSB) to add engine models requiring inspection. We are issuing this AD to prevent failure of the fuel injector fuel lines that would allow fuel to spray into the engine compartment, resulting in an engine fire.

Compliance

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

Engines That Have Had Initial Inspections

(h) For engines that have had initial inspections in accordance with Textron Lycoming MSB No. 342, dated March 24, 1972; Textron Lycoming MSB No. 342A, dated May 26, 1992; Textron Lycoming MSB No. 342B, dated October 22, 1993; Supplement No. 1 to MSB No. 342B, dated April 27, 1999; Textron Lycoming MSB No. 342C, dated April 28, 2000; Textron Lycoming MSB No. 342D, dated July 10, 2001; Lycoming Engines MSB No. 342E, dated May 18, 2004, or Lycoming Engines MSB 342F, dated June 4, 2010, inspect in accordance with paragraph (j) of this AD.

Engines That Have Not Had Initial Inspections

(i) For engines that have not had initial inspections previously done in accordance with Textron Lycoming MSB No. 342, dated March 24, 1972; Textron Lycoming MSB No. 342A, dated May 26, 1992; Textron Lycoming MSB No. 342B, dated October 22, 1993; Supplement No. 1 to MSB No. 342B, dated April 27, 1999; Textron Lycoming MSB No. 342C, dated April 28, 2000; Textron Lycoming MSB No. 342D, dated July 10, 2001; Lycoming Engines MSB No. 342E, dated May 18, 2004, or Lycoming Engines MSB 342F, dated June 4, 2010, inspect as follows:

(1) For engines that have not yet had any fuel line maintenance done, or have not had any fuel line maintenance done since new or since the last overhaul, inspect in accordance with paragraph (k) of this AD within 50 hours time-in-service (TIS) after the effective date of this AD.

(2) For all other engines, inspect in accordance with paragraph (k) of this AD within 10 hours TIS after the effective date of this AD.

Repetitive Inspections

(j) Thereafter, inspect at intervals of 100 hours TIS (not to exceed 110 hours), at each engine overhaul, and after any maintenance has been done on the engine where any clamp (or clamps) on a fuel injector line (or lines) has been disconnected, moved, or loosened, in accordance with paragraph (k) of this AD.

Inspection Criteria

(k) Inspect the fuel injector fuel lines and clamps between the fuel manifold and the fuel injector nozzles, and replace as necessary any fuel injector fuel line and clamp that does not meet all conditions specified in Lycoming Engines MSB No. 342F, dated June 4, 2010.

Alternative Methods of Compliance (AMOCs)

(l) The Manager, New York Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD if requested using the procedures found in 14 CFR 39.19.

Related Information

(m) For more information about this AD, contact Norm Perenson, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine & Propeller Directorate, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; e-mail: phone: 516–228–7337; fax: 516–794–5531; *Norman.perenson@faa.gov*.

(n) FAA Special Airworthiness Information Bulletin No. NE–07–49, dated September 20, 2007, is not mandatory, but has additional information on this subject.

(o) For service information identified in this AD, contact Lycoming Engines, 652 Oliver Street, Williamsport, PA 17701, or go to *http://www.lycoming.textron.com.*

Issued in Burlington, Massachusetts, on February 8, 2011.

Peter A. White,

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

[FR Doc. 2011–3349 Filed 2–14–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2010–1139]

RIN 1625–AA09

Drawbridge Operation Regulation; Atlantic Intracoastal Waterway (AIWW), at Wrightsville Beach, NC; Cape Fear and Northeast Cape Fear River, at Wilmington, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the regulations that govern the operations of three North Carolina Department of Transportation (NCDOT) bridges: The S.R. 74 Bridge, across the AIWW, mile 283.1 at Wrightsville Beach, NC; the Cape Fear Memorial Bridge across the Cape Fear River, mile 26.8; and the Isabel S. Holmes Bridge across the Northeast Cape Fear River, mile 1.0; both at Wilmington, NC. The proposed change will alter the dates these bridges are allowed to remain in the closed position to accommodate the annual Beach2Battleship Iron and ½

Iron Triathlon and the Battleship North Carolina Half Marathon and 5K.

DATES: Comments and related material must reach the Coast Guard on or before April 18, 2011.

ADDRESSES: You may submit comments identified by docket number USCG–2010–1139 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Ms. Lindsey Middleton, Fifth District Bridge Administration Division, Coast Guard; telephone 757–398–6629, e-mail *Lindsey.R.Middleton@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2010–1139), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (*http://www.regulations.gov*), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov*, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rules" and insert "USCG–2010–1139" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½; by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG–2010–1139" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Basis and Purpose

The Beach2Battleship Iron and ½ Iron distance Triathlon competition is an annual event that is held in the Wrightsville Beach and Wilmington, NC area. The swimming portion of this triathlon is tide dependent and so is difficult to determine the exact date to best hold the event. The Coast Guard proposes to allow the S.R. 74 (Wrightsville Beach) Bridge to remain closed to navigation between 7 a.m. and 10:30 a.m. and the Isabel S. Holmes Bridge to remain closed to navigation between 12 p.m. and 11:59 p.m. on the last Saturday in October or the first or second Saturday in November depending on the tides and the date the event will be held. The exact date of the closure will be published locally in the Local Notice to Mariners and Broadcast Notice to Mariners.

Also, the sponsoring group of the Battleship North Carolina Half Marathon & 5K, has requested a change to the current operating regulation of the Cape Fear Memorial Bridge and the Isabel S. Holmes Bridge. The request is to modify the existing annual November closure from just the second Sunday in November to the first or second Sunday in November. The Battleship Race group has agreed to schedule their race on the opposing weekend of the Iron Man competition. As with the Iron Man race, the exact date of the closure will be published locally in the Local Notice to Mariners and the Broadcast Notice to Mariners.

The S.R. 74 Bridge is a double leaf bascule drawbridge with a vertical clearance of 20 feet at mean high water in the closed position. The Cape Fear Memorial Bridge is a vertical lift drawbridge with a vertical clearance of 65 feet at mean high water in the closed position. The Isabel S. Holmes Bridge is a double leaf bascule drawbridge with a vertical clearance of 40 feet at mean high water in the closed position.

Discussion of Proposed Rule

The Coast Guard proposes to revise 33 CFR 117.821 (a)(4)for the S.R. 74 Bridge, at mile 283.1 at Wrightsville Beach, NC, 33 CFR 117.823 for the Cape Fear Memorial Bridge at mile 26.8, and 33

CFR 117.829(a)(4) for the Isabel S. Holmes Bridge at mile 1.0, both at Wilmington, NC. The proposed amendment would allow the S.R. 74 and Isabel S. Holmes bridges to remain in the closed position on the last Saturday of October or the first or second Saturday of November and allow the Cape Fear Memorial and Isabel S. Holmes Bridges to remain in the closed position during the morning hours on the first or second Sunday of November. Once the dates of the races have been determined, the Coast Guard will issue Local Notice to Mariners' and Broadcast Notice to Mariners' for mariners to plan their schedules accordingly.

There are no alternative routes available to vessels transiting these waterways. Vessels that can transit under the bridges without an opening may do so at any time. The bridges will be able to open for emergencies.

Regulatory Analyses

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

Regulatory Planning and Review

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

The proposed changes are expected to have minimal impact on mariners due to the short duration that the drawbridges will be maintained in the closed position. Both events have been observed in past years with little to no impact to marine or vehicular traffic. It is also a necessary measure to facilitate public safety that allows for the orderly movement of participants and vehicular traffic before, during, and after the races.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels needing to transit any of the bridges between the hours of closure on either race day.

This action will not have a significant economic impact on a substantial number of small entities because the rule only adds minimal restrictions to the movement of navigation, and mariners who plan their transits in accordance with the scheduled bridge closures can minimize delay. Vessels that can safely transit under the bridges may do so at any time.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lindsey Middleton, Bridge Management Specialist, Fifth Coast Guard District at (757) 398–6629 or *Lindsey.R.Middleton@uscg.mil*. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This proposed rule would not 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 proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01, and Commandant Instruction M16475.lD which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment because it simply promulgates the operating regulations or procedures for drawbridges. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Revise § 117.821(a)(4) to read as follows:

§ 117.821 Atlantic Intracoastal Waterway, Albermarle Sound to Sunset Beach.

(a) * * *

(4) S.R. 74 Bridge, mile 283.1, at Wrightsville Beach, NC, between 7 a.m. and 7 p.m., the draw need only open on the hour; except that from 7 a.m. to 11 a.m. on the third and fourth Saturday in September of every year, the draw need not open for vessels and between 7 a.m. and 10:30 a.m. on the last Saturday of October each year or the first or second Saturday of November of every year the draw need not open for vessels due to annual triathlon events.

3. Revise § 117.823 to read as follows:

§ 117.823 Cape Fear River.

The draw of the Cape Fear Memorial Bridge, mile 26.8, at Wilmington need not open for the passage of vessels from 8 a.m. to 10 a.m. on the second Saturday of July of every year, and from 7 a.m. to 11 a.m. on the first or second Sunday of November of every year to accommodate annual marathon races.

4. Revise § 117.829(a)(4) to read as follows:

§ 117.829 Northeast Cape Fear River.

(a)* * *

(4) From 8 a.m. to 10 a.m. on the second Saturday of July of every year, from 12 p.m. to 11:59 p.m. on the last Saturday of October or the first or second Saturday of November of every year, and from 7 a.m. to 11 a.m. on the first or second Sunday of November of every year, the draw need not open for vessels to accommodate annual marathon and triathlon races.

* * * * *

Dated: February 1, 2011.

William D. Lee,

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

[FR Doc. 2011–3355 Filed 2–14–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 3, 14, 20

RIN 2900–AN91

Substitution in Case of Death of Claimant

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its regulations concerning adjudication of claims, representation of claimants, and Board of Veterans' Appeals rules of practice. These amendments would implement section 212 of the Veterans' Benefits Improvement Act of 2008, which allows an eligible survivor to substitute for a deceased claimant in order to complete the processing of the deceased claimant's claim. The intended effect of these amendments is to clarify the rules and procedures for those situations in which substitution is authorized. Under section 212, if a claimant dies while his or her claim or appeal is pending before VA, a survivor who would be eligible for accrued benefits under existing statutory authority may, not later than one year after the death of the claimant, request to be substituted for the claimant for the purposes of processing the claim or appeal to completion. Accordingly, after substitution, VA will continue to process the claim or appeal as if the claimant had not died. These amendments clarify the following matters: Eligibility for substitution, how an eligible survivor makes a request to substitute, how VA responds to requests to substitute, a substitute's rights in adjudication, limitations related to substitution, order of preference among eligible survivors, representation of substitutes, and procedures for substitution when a claim is before the Board of Veterans' Appeals.

DATES: Comments must be received by VA on or before April 18, 2011.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov;* by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. (This is not a toll free number.) Comments should indicate that they are submitted in response to "RIN 2900–AN91—Substitution in Case of Death of Claimant." 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 (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Robert Watkins, Department of Veterans Affairs, Veterans Benefits Administration, Compensation and Pension Service, Regulation Staff (211D), 810 Vermont Avenue, NW., Washington, DC 20420, 202–461–9214. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 212 of the Veterans' Benefits Improvement Act of 2008, Public Law 110–389 (the Act), added to title 38, United States Code, a provision codified at 38 U.S.C. 5121A. It authorizes a living person eligible to receive accrued benefits under 38 U.S.C. 5121(a) to substitute for a deceased claimant in order to process a claim or appeal pending before VA to completion. Section 5121A permits, upon timely request, a person who would be eligible for accrued benefits under 38 U.S.C. 5121(a) to continue a claim that was pending when the claimant died. The legislative intent in enacting section 212 was to change the then-state of the law, which permitted eligible survivors to file an accrued benefits claim after the death of a claimant, but made no provision for substitution. *See* 154 Cong. Rec. S10447 (daily ed. Oct. 2, 2008) (Joint Explanatory Statement on Amendment to Senate Bill, S. 3023, as Amended) ("Currently * * * the surviving spouse or other beneficiary is unable to take up the claim where it is in the process and must refile the claim separately as if submitting a new claim."); 38 U.S.C. 5121. A successful accrued benefits claim can only result in payment of those benefits "to which [the claimant] was entitled at death under existing ratings or decisions or those based on evidence in the file at date of death * * * and due and unpaid." 38 U.S.C. 5121. By permitting substitution, Congress created a new procedural right and expanded the nature of benefits that eligible survivors can secure following a claimant's death. The availability of substitution means that survivors are no longer limited to those benefits to which the claimant was entitled at death under existing ratings or decisions or those based on evidence in the file at date of death. However, the types of benefits payable to a survivor—periodic monetary benefits (other than insurance and servicemembers' indemnity)—remain the same.

To implement the Act, VA proposes to add to 38 CFR part 3, subpart A, a new § 3.1010 to clarify adjudication procedures affected by section 5121A. Because the Act inserted section 5121A immediately after section 5121 in title 38, U.S. Code, and otherwise closely links the two statutes, VA proposes to insert 5121A's implementing regulation, § 3.1010, immediately after section 5121's existing implementing regulations at §§ 3.1000–3.1009 (referred to as the "accrued benefits regulations"). Further, VA proposes to generally model §§ 3.1010 after the accrued benefits regulations to the extent appropriate. In addition, VA proposes to add to and amend portions of part 14 to address the representation of substitutes before VA. Finally, VA proposes to add to and amend portions of 38 CFR part 20 to clarify procedures before the Board of Veterans' Appeals (Board) affected by section 5121A.

Section 5121A(a)(3) provides: "Substitution under this subsection shall be in accordance with such regulations as the Secretary may prescribe." In addition, section 5121A(a)(2) states, "Any person seeking to be substituted for the claimant shall present evidence of the right to claim such status within such time as prescribed by the Secretary in regulations." Finally, pursuant to 38 U.S.C. 501(a), the Secretary possess the authority to prescribe all the rules and regulations that are necessary or appropriate to carry out the laws administered by VA and that are consistent with those laws. Pursuant to the authority granted to the Secretary under sections 501(a) and 5121A, VA proposes the addition of § 3.1010 and the amendment of §§ 14.630, 14.631, 20.900, 20.1106, 20.1302, and 20.1304. With respect to each of these amendments, VA proposes to add a citation to 38 U.S.C. 5121A in the existing authority citation. The following sections of this **SUPPLEMENTARY INFORMATION** discuss in more detail the proposed changes to parts 3, 14, and 20.

Amendments to Part 3

Eligibility for and Scope of Substitution

Proposed § 3.1010(a) would set forth the eligibility criteria for substitution. In accordance with the Act (38 U.S.C. 5121A(a)(1)), the proposed rule states that, if a claimant dies on or after the effective date of the Act—October 10, 2008—then a person who would be eligible to receive accrued benefits under § 3.1000(a) of the accrued benefits regulations may request to become a substitute for the deceased claimant in a claim for periodic monetary benefits (other than insurance and servicemen's indemnity) under laws administered by the Secretary, or an appeal of a decision with respect to such a claim that was pending, when the claimant died. The "claimant" is in most circumstances a veteran claiming benefits based upon his or her own service. However, the "claimant" could also be a veteran's surviving spouse, the veteran's child, or a person receiving an apportioned share of a veteran's benefits, if such person were claiming benefits based on their original entitlement, rather than the entitlement of another person.

Proposed § 3.1010(a) would also describe the scope of substitution. Consistent with the Act (38 U.S.C. 5121A(a)(1)), § 3.1010(a) would state, "Upon VA's grant of a request to substitute, the substitute may continue the claim or appeal on behalf of the deceased claimant for purposes of processing the claim or appeal to completion."

Requests To Substitute and Determinations

Proposed § 3.1010(b) would describe the time and place for filing a request to substitute. Consistent with the Act (38 U.S.C. 5121A(a)(1)), § 3.1010(b) would require that a person desiring to substitute for a deceased claimant file a request to substitute "no later than one year after the claimant's death." Proposed § 3.1010(b) would also require that all requests to substitute be filed with the agency of original jurisdiction (AOJ) for a decision on the request to substitute in the first instance. Similarly, proposed § 3.1010(e), "Decisions on substitution requests," would specify that the AOJ "will decide in the first instance all requests to substitute, including any request to substitute in an appeal pending before the Board." These provisions would clarify that, if a claimant dies while his or her appeal is pending before the Board, a person seeking to substitute must file a request to substitute with the AOJ in order to receive an initial decision on a request to substitute. Pursuant to proposed § 3.1010(g)(1)(ii), an appeal would be considered to be pending "if a claimant filed a notice of disagreement in response to a notification from an agency of original jurisdiction of its decision on a claim, but dies before the Board of Veterans' Appeals issues a final decision on the appeal. Once the Board issues its final decision on an appeal, the appeal is not pending for purposes of this section, even if the 120-day period for appealing the Board's decision to the Court of Appeals for Veterans Claims has not yet expired." As explained in more detail below, this procedure is consistent with the Board's jurisdictional authority, 38 U.S.C. 7104(a), which provides that "[a]ll questions in a matter which * * * is subject to decision by the Secretary shall be subject to *one review on appeal* to the Secretary. Final decisions on such appeals shall be made by the Board." *See* 38 CFR 20.101(a) (emphasis added). Because neither the Act nor any other legislation amended the Board's jurisdictional statute at 38 U.S.C. 7104(a), the Board lacks original jurisdiction to decide a request to substitute in the first instance, but, as

discussed below in this preamble, may hear an appeal of a denial of a request to substitute.

The Board's role in VA's adjudication system is generally limited to providing appellate review of adverse decisions made by an AOJ. With very limited exceptions, such as motions to revise a final Board decision based upon clear and unmistakable error, the Board does not have original jurisdiction over matters subject to a decision by the Secretary. Because the Board is jurisdictionally limited to deciding appeals, the Board cannot entertain requests to substitute in the first instance, as this would be outside the Board's jurisdiction and deprive putative substitutes of their statutory right to "one review on appeal to the Secretary" in the event of a Board denial of a request to substitute. Under the current statutory scheme, an AOJ decision on a request to substitute is itself appealable to the Board. Accordingly, under proposed § 3.1010(e)(2), "Appeals," the denial of a request to substitute may be appealed to the Board. For these reasons, the AOJ, not the Board, must decide these requests in the first instance.

Notably, the Act (38 U.S.C. 5121A(a)(2)) contemplates the submission of evidence to establish eligibility for substitution, specifically providing that "[a]ny person seeking to be substituted for the claimant shall *present evidence* of the right to claim such status." (emphasis added). (Proposed § 3.1010(d), discussed below in this preamble, would address the submission of evidence in support of a request to substitute.) The United States Court of Appeals for the Federal Circuit has made clear that, except as otherwise specifically provided by law, the Board generally cannot develop and consider evidence in the first instance. Initial consideration of evidence, including that relating to eligibility for substitution, must be undertaken by the AOJ. *See Disabled Am. Veterans* v. *Sec'y of Veterans Affairs,* 327 F.3d 1339, 1347 (Fed. Cir. 2003) (*DAV*) ("[w]hen the Board obtains evidence that was not considered by the AOJ * * * an appellant has no means to obtain 'one review on appeal to the Secretary,' because the Board is the only appellate tribunal under the Secretary"). This is another reason to have all requests to substitute be decided by an AOJ in the first instance.

Proposed § 3.1010 would contain no provision allowing a person requesting to substitute the option of waiving his or her right to one review on appeal. In *DAV,* the Federal Circuit implicitly approved of waiver by a claimant of the consideration of evidence by the AOJ in the first instance. 327 F.3d at 1341. However, it would be contrary to VA's statutory adjudication authority to employ the use of waivers in the context of a decision on a request to substitute. An AOJ decision on a request to substitute is an appealable decision under to 38 U.S.C. 7104(a). *See, e.g.,* 20 CFR 19.28 (establishing as an appealable issue the question of whether a notice of disagreement is adequate). A significant difference exists between waiving the AOJ's consideration of certain evidence regarding a claim and waiving the AOJ's consideration of an appealable issue in the first instance, particularly because waiver would require original jurisdiction that the Board lacks. Nothing in *DAV* suggests that the Board has the authority to adjudicate an appealable issue in the first instance. Rather, *DAV* stands for the proposition that the Board may consider newly obtained evidence that was not first considered by the AOJ *as part of its adjudication of an issue* if a valid waiver is obtained from the appellant. In the context of a request to substitute, the Board would not be soliciting a waiver for purposes of considering evidence regarding eligibility to substitute, which would be a situation analogous to the discussion of waiver in *DAV.* For these reasons, proposed § 3.1010 would make no provision for waiver of AOJ consideration of a request to substitute in the first instance.

Proposed § 3.1010(e)(3) would define the term "joint class" and provide the joint class order of preference rules for substitution. Specifically, under § 3.1010(e)(3), "Joint class representative," a "joint class" would mean "a group of two or more persons eligible to substitute under the same priority group under 38 CFR 3.1000(a)(1) through (a)(5), *e.g.,* two or more surviving children." As explained above, Congress closely linked section 5121A and section 5121. Also, the Act (38 U.S.C. 5121A(b)) specifically provides the limitation that "[t]hose who are eligible to make a claim under this section shall be determined in accordance with section 5121." Thus, it is consistent with the Act to apply the eligibility standards in the accrued benefits regulations to the substitution regulations. The proposed definition of "joint class" would simply describe the eligibility categories enumerated in the accrued benefits statute at 38 U.S.C. 5121(a) that could contain multiple persons, such as "[t]he veteran's children" and "[t]he veteran's dependent parents." Although the phrase "joint class" is used in the accrued benefits regulations at 38 CFR 3.1000(c)(2), it is not described in further detail. For the sake of clarity, the proposed rule would include a definition of "joint class." We propose in § 3.1010(e)(3)(ii) that "only one person of the joint class may be a substitute at any one time," and "[t]he first person in the joint class to file a request to substitute that is granted will be the substitute representing the joint class." This is consistent with the Act (38 U.S.C. 5121A(a)), which authorizes only "a person" to substitute.

Format of Request To Substitute

Proposed § 3.1010(c), "Request format," would specify the required format for a request to substitute. Under proposed § 3.1010(c), a request to substitute would be required to be submitted in writing. Further, a request to substitute would be required to contain, at a minimum, the word "substitute" or "substitution," the applicable claim number or appeal number, and the names of the deceased claimant and the person requesting to substitute. Alternatively, under proposed § 3.1010(c)(2), a claim for accrued benefits, death pension, or dependency and indemnity compensation by an eligible person listed in 38 CFR 3.1000(a)(1) through (5) would be deemed to include a request to substitute if a claim for periodic monetary benefits (other than insurance and servicemembers' indemnity) under laws administered by the Secretary, or an appeal of a decision with respect to such a claim, was pending before the AOJ or the Board when the claimant died. This provision would be consistent with VA's current treatment of claims for death benefits as interchangeable. Specifically, 38 CFR 3.152(b)(1) requires that "[a] claim by a surviving spouse or child for [death] compensation or dependency and indemnity compensation * * * be considered to be a claim for death pension and accrued benefits, and a claim by a surviving spouse or child for death pension * * * be considered to be a claim for death compensation or dependency and indemnity compensation and accrued benefits."

Although under the proposed rule VA would treat qualifying death benefits claims as requests to substitute, VA anticipates that not all persons filing a claim for death benefits will wish to substitute for a deceased claimant. Therefore, VA would provide an opportunity for a person to waive the right to substitute when he or she has filed a claim for accrued benefits, death pension, or dependency and indemnity

compensation, which VA would otherwise deem a request to substitute.

Evidence of Eligibility To Substitute

Proposed § 3.1010(d), "Evidence of eligibility," would address the submission of evidence in support of a request to substitute. Consistent with the Act (38 U.S.C. 5121A(a)(2)), proposed § 3.1010(d) would establish the time period in which a person seeking to be substituted for a deceased claimant must present evidence of the right to claim such status. As an initial matter, a person desiring to substitute would have to file a request to substitute no later than one year after the claimant's death, pursuant to the Act (38 U.S.C. 5121A(a)(1)) and as would be required under proposed § 3.1010(b). Under proposed § 3.1010(d), if the request to substitute does not include sufficient evidence of the person's eligibility to substitute, then VA would send notification to the person who filed the request. VA would not provide notification if the person filing the request could not be an eligible person. For example, VA would not send notification if the person who filed the request claimed to be an individual outside the categories of eligible persons under 38 CFR 3.1000(a)(1) through (5).

Pursuant to proposed § 3.1010(d)(1) through (3), a person who filed a request to substitute without necessary evidence of eligibility would be notified: "(1) Of the evidence of eligibility required to complete the request to substitute; (2) That VA will take no further action on the request to substitute unless VA receives the evidence of eligibility; and (3) That VA must receive the evidence of eligibility no later than 60 days after the date of notification or one year after the claimant's death, whichever is later, or VA will deny the request to substitute." Thus, under proposed § 3.1010(d)(1), a person who does not provide required evidence of eligibility to substitute with their request to substitute would be given 60 days from the date of VA's notification or until the expiration of one year after the claimant's death, whichever is later, to provide necessary evidence of eligibility. The later of 60 days from the date of notification or one year from the date of the claimant's death is a reasonable time in which to submit evidence of eligibility to substitute, especially because VA would have notified the person who filed the request of the evidence required to demonstrate eligibility.

The accrued benefits regulation at § 3.1000(c)(1)(iii) gives an accrued benefits claimant 1 year from the date of VA's notification of an incomplete application for accrued benefits in which to provide the necessary eligibility evidence. However, this 1-year time period from the date of notification is mandated by the accrued benefits statute at 38 U.S.C. 5121(c). In contrast, under the Act (38 U.S.C. 5121A(a)(2)), Congress granted the Secretary the authority to establish the time period for the submission of evidence of eligibility to substitute with the intent of ensuring the timely submission of evidence. The sooner the AOJ receives evidence of eligibility to substitute, the sooner an eligible person may become a substitute and begin to process to completion the claim or appeal that was pending. Such timeliness is less significant under the accrued benefits statute (38 U.S.C. 5121), which does not provide for the completion of any pending claim or appeal. Further, proposed § 3.1010 would be consistent with the Act (38 U.S.C. 5121A) because in no event would a person requesting to substitute be given less than 1 year from the date of the claimant's death in which to complete the request to substitute.

Adjudications Before the AOJ

Proposed § 3.1010(f) would clarify the rules governing an adjudication before the AOJ of a claim involving a substitute. As noted in proposed § 3.1010(f)(5), the rules governing an appeal before the Board involving a substitute are specifically addressed in parts 19 and 20, the proposed amendments to which are discussed below in this preamble.

As a general matter, all part 3 regulations that would have been applicable to the claimant had the claimant not died would be applicable to the substitute under the proposed regulations, with some exceptions predicated on the fact that the claimant has died. Under proposed § 3.1010(f)(1), VA would send to a substitute notice under 38 CFR 3.159(b) only if the required notice was not sent to the deceased claimant or if the notice sent to the deceased claimant was inadequate. Section 3.159(b) governs VA's duty to notify claimants of information or evidence that is necessary to substantiate a claim and is the implementing regulation for the notification duty imposed on VA by the Veterans Claims Assistance Act (VCAA) of 2000 (Pub. L. 106–475), codified at 38 U.S.C. 5103. VA recognizes that in some circumstances a claimant would have been provided this VCAA notice under § 3.159(b) prior to death. In such cases, VA will send notice to a substitute only if notice was not previously sent or was inadequate because a substitute is generally considered to "stand in the shoes" of the deceased claimant.

Under proposed § 3.1010(f)(2), a substitute would be expressly prohibited from adding new issues to or expanding the existing claim. However, a substitute would be permitted to raise new theories of entitlement as to the claim. This limitation would be consistent with the Act (38 U.S.C. 5121A(a)(1)) because the Act contemplates that a substitute will replace a deceased claimant for the purpose of processing a claim or appeal that was pending to completion. However, the Act does not authorize a person to add new issues to a claim, which would be tantamount to filing a new claim on behalf of a deceased claimant. For example, if a veteran had a claim pending regarding the single issue of service connection for a knee injury, a substitute could raise a previously unraised theory of entitlement, such as secondary service connection. However, the substitute could not add the issue of or file a claim for service connection for post-traumatic stress disorder.

Although a substitute could not add new issues to or expand a claim, under proposed § 3.1010(f)(3), a substitute could submit evidence and generally would have the same rights regarding hearings, representation, and appeals as would have applied to the claimant had the claimant not died.

Limitations on Substitution

Proposed § 3.1010(g), "Limitations on substitution," would address the limitations that apply to substitution. These limitations would help to further clarify the scope of substitution and would be consistent with the language of the Act. Section 3.1010(g)(1) would clarify when a person may substitute for a deceased claimant by specifying that a claim or appeal must be undecided to be pending for purposes of substitution. Specifically, a person could substitute if a claim has been filed with but has not been decided by the AOJ before the claimant's death, or if a notice of disagreement has been filed to initiate an appeal to the Board, but the Board has not decided the appeal before the claimant's death. In other words, a person could not substitute for a "claimant" who dies without first filing a claim or initiating an appeal, even if the substitute were to file a request to substitute during the appeal period.

VA recognizes that the limitation in proposed § 3.1010(g)(1) may appear to conflict with VA's definitions of "pending claim" and "finally adjudicated claim" in 38 CFR 3.160, "Status of claims." Pursuant to

paragraphs (c) and (d) of § 3.160, a "pending claim" is one that has not been "finally adjudicated," and a "finally adjudicated claim" means "[a]n application, formal or informal, which has been allowed or disallowed by the agency of original jurisdiction, the action having become final by the expiration of 1 year after the date of notice of an award or disallowance, or by denial on appellate review, whichever is the earlier." This means that a decided claim for which the 1-year appeal period has not yet expired is considered a "pending claim" unless the Board has already decided the appeal. However, the Act does not use the term "pending claim" or "finally adjudicated claim," and VA does not use these terms in the proposed rule. VA interprets the phrase in the Act "a claim * * * or an appeal * * * is pending" to mean that a claim or appeal must have been initiated by the claimant before death in order for an eligible person to substitute for the claimant upon the claimant's death. In the context of a living claimant, a claim must be a "pending claim" until the expiration of the appeal period because that claimant could initiate an appeal at any time during that period. Also, a claim must be a "pending claim" even if appealed to the Board and not yet decided by the Board because of the possibility of the Board remanding the claim for additional development. However, when a claimant dies before initiating a claim or appeal, substitution is not available because a person may not substitute for the purpose of initiating a claim or an appeal.

As explained above, the Act authorizes VA to pay benefits of a different nature than allowed by the accrued benefits statute, i.e., benefits not limited to those to which the claimant was entitled at death under existing ratings or decisions or those based on evidence in the file at date of death and due and unpaid. Proposed § 3.1010(g)(2) would further clarify the nature of benefits payable under section 5121A. First, paragraph (g)(2) would clarify that VA is authorized to award only past-due benefits to the substitute and other members of a joint class, if any. Second, paragraph (g)(2) would specify that past-due benefits are those benefits for the time period between the effective date of the award and what would have been the effective date of discontinuance of the award as a result of the claimant's death. *See* 38 CFR 3.500(g). In other words, a substitute would be eligible to receive past-due benefits for the period between the effective date of the award and the last day of the month preceding the claimant's death.

Proposed paragraphs (g)(3) and (g)(4) would parallel provisions in the accrued benefits statute and implementing regulations. As discussed previously, parallelism between the proposed substitution regulations and the accrued benefits regulations is generally appropriate given that Congress closely linked the two statutes together. Proposed § 3.1010(g)(3) would describe when the amount of benefits awarded to a substitute and members of a joint class, if any, is limited to the amount of the expense of last sickness and burial. This provision would simply repeat the limitation under the accrued benefits statute at 38 U.S.C. 5121(a)(6), implemented at 38 CFR 3.1000(a)(5), which limits the amount of accrued benefits payable when entitlement cannot be established under categories (a)(1) through (a)(5) of that section. Because the Act (38 U.S.C. 5121A(a)(1)) defines eligibility to substitute in terms of the eligibility criteria under section 5121(a), the benefit amount limitation inherent in the eligibility provisions of section 5121(a)(6) applies to a person substituted on the basis of having borne the expense of last sickness and burial.

Proposed paragraph (g)(4) would mirror the accrued benefits regulation at § 3.1000(c)(2) and clarify that, if an eligible person in a priority category fails or waives the right to file a request to substitute, persons of a lower category are not permitted to substitute. Similarly, under proposed paragraph (g)(4), failure or waiver of the right to file a request to substitute by a member of a joint class would not serve to increase the amount payable to other persons in the class.

Finally, proposed paragraph (g)(5) would explain when subsequent substitutions are permitted upon the death of a substitute. Proposed paragraph (g)(5) would permit substitution for a deceased substitute only under the same circumstances in which substitution would have been permitted for a deceased claimant. In other words, substitution for a substitute would be permitted only if the substitute died while a claim was pending before the AOJ or the Board or an appeal of a decision on a claim was pending before the AOJ or the Board. Further, proposed paragraph (g)(5) would allow substitution upon the death of a substitute only if the request to substitute for the deceased substitute is filed within the one-year period from the date of the claimant's death, not the date of the substitute's death. This provision comes directly from the Act (38 U.S.C. 5121A(a)(1)), which authorizes a request to substitute to be filed not later than 1 year after the date of the death of the claimant, but does not authorize substitution outside of this 1-year period.

Amendments to Part 14

Representation of Substitutes

The Act does not address the representation of substitutes by attorneys, claims agents, veterans service organization representatives, or other individuals. However, we propose to revise VA's regulations governing representation of VA claimants to clarify that the same rules that would apply to a claimant apply to a substitute. Specifically, we propose to amend 38 CFR 14.630, "Authorization for a particular claim," by adding a new paragraph (e), to explain that a person authorized to represent a claimant on a one-time basis pursuant to § 14.630 may also represent the substitute with respect to that claim upon the claimant's death as long as a new VA Form 21–22a, "Appointment of Individual as Claimant's Representative," is filed. Proposed § 14.630(e) would permit such representation notwithstanding § 14.630(b), which authorizes representation on a "one time only" basis, because the substitute will be processing the same claim to completion.

Similarly, we propose to amend § 14.631 by adding a new paragraph (g), to clarify that an attorney, claims agent, or veterans service organization representative may represent a substitute only if a new VA Form 21–22, "Appointment of Veterans Service Organization as Claimant's Representative," or VA Form 21–22a, "Appointment of Individual as Claimant's Representative," signed by the substitute is filed. In other words, in no case will the representative of the deceased claimant be permitted to represent the substitute without the filing of a new VA Form 21–22 or VA Form 21–22a signed by the substitute to authorize such representation. In addition, if the substitute wants the representation of a person under § 14.630(a), a statement signed by the person and the substitute that no compensation will be charged or paid for the services would be required.

Amendments to Part 20

Adjudications Before the Board

We propose to amend 38 CFR 20.900 by adding new paragraph (a)(2) stating, "Cases returned to the Board following the grant of a substitution request or pursuant to an appeal of a denial of a

substitution request assume the place on the docket that was originally held by the deceased appellant." This provision ensures that substitutes in appeals that were pending before the Board when the appellant died will get the benefit of the claim's original docket number. This proposed rule also makes a related organizational amendment to § 20.900 by designating as paragraph (a)(1) the existing provision stating that cases returned to the Board following action pursuant to remand assume their original place on the docket. This provision is currently part of paragraph (a).

We also propose to amend 38 CFR 20.1106, "Rule 1106. Claim for death benefits by survivor—prior unfavorable decisions during veteran's lifetime," by adding that "[c]ases in which a person substitutes for a deceased veteran under 38 U.S.C. 5121A are not claims for death benefits and are not subject to this section. Cases in which a person substitutes for a deceased death benefits claimant under 38 U.S.C. 5121A are claims for death benefits subject to this section." The inclusion of these statements is appropriate because a substitute on behalf of a veteran will be continuing a claim that was pending when the veteran died, and therefore the claim is not one for "death benefits," and any issues decided must be decided with regard to the prior disposition of those issues during the veteran's lifetime as they would have been were the veteran still alive. A person who substitutes for a death benefits claimant will be prosecuting a claim for "death benefits" so the rule regarding decisions without regard to any prior disposition of the issues during the veteran's lifetime will apply as in other death benefit claims.

In addition, we propose to amend § 20.1302, "Rule 1302. Death of appellant during pendency of appeal," to account for section 5121A. Specifically, we propose to specify that an appeal pending before the Board when the appellant dies will be dismissed "without prejudice." This amendment is intended to allow the appeal to continue following a grant of a request to substitute and to ensure that a substitute is not prejudiced by the dismissal of the appeal upon the death of the claimant. We also propose to refer to § 3.1010 to clarify that requests to substitute must be filed with the AOJ for a decision on the request to substitute in the first instance. Moreover, the proposed amendment contains a reference to § 20.900(a)(2) to clarify that, "[i]f the agency of original jurisdiction grants the request to substitute, the case will assume its original place on the docket pursuant to Rule 900 (§ 20.900(a)(2) of this part)."

We also propose to add to 38 CFR 20.1302 a paragraph (b) to specify a narrow exception to the general rule described in what would be designated as paragraph (a). Specifically, paragraph (b)(1) would permit the grant of a request to substitute by the AOJ prior to the dismissal of an appeal by the Board when the appellant had requested a hearing before the AOJ prior to death and a written request to substitute has been received at or before that hearing. In this limited context, the AOJ may make a decision on the request to substitute before the Board dismisses the appeal on account of the appellant's death. Paragraph (b)(2) explains what happens if the AOJ grants the request to substitute:

> If the [AOJ] grants the request to substitute, the [Board] can then take the testimony of the substitute at a hearing held pursuant to Rule 700 *et seq.* (§ 20.700 *et seq.* of this part). If the substitute desires representation at the hearing, he or she must appoint a representative prior to the hearing pursuant to § 14.631(g) of this chapter.

This proposed amendment is intended to promote efficiency in those circumstances where a hearing is scheduled to be held before the AOJ following the appellant's death.

Finally, we propose to amend 38 CFR 20.1304(b)(1), which provides the general rule applicable to a request for a change in representation, a request for a personal hearing, or the submission of additional evidence, received more than 90 days following notification of certification of an appeal and transfer of the appellate record to the Board. We propose to add to the list of items required in a motion for acceptance of such requests or evidence based on good cause "the name of any substitute claimant or appellant."

Paperwork Reduction Act

Although this document contains provisions constituting collections of information, at 38 CFR 3.1010(b) and (c) and 14.631(g), under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), no new or proposed revised collections of information are associated with this proposed rule. The information collection requirements for §§ 3.1010(b) and (c) and 14.631(g), are currently approved by the Office of Management and Budget (OMB) and have been assigned OMB control numbers 2900–0740 (VA Form 21–0847, Request for Substitution of Claimant Upon Death of Claimant); 2900–0321(VA Form 21–22, Appointment of Veterans Service Organization as Claimant's Representative); and 2900–0321 (VA Form 21–22a, Appointment of Individual as Claimant's Representative).

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule will 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 *et seq.* This proposed rule would directly affect only individuals and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis 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), 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 that it is not a significant regulatory action under the Executive Order.

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 1 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 Numbers and Titles

The Catalog of Federal Domestic Assistance program numbers and titles for the programs affected by this document are 64.103, Life Insurance for Veterans; 64.104, Pension for Non-Service-Connected Disability for Veterans; 64.105, Pension to Veterans Surviving Spouses, and Children; 64.109, Veterans Compensation for Service-Connected Disability; 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death; 64.115, Veterans Information and Assistance.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on January 31, 2011, for publication.

List of Subjects

38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Pensions, Veterans.

38 CFR Part 14

Administrative practice and procedure, Claims, Courts, Foreign relations, General Counsel, Government employees, Lawyers, Legal services, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Surety bonds, Trusts and trustees, Veterans.

38 CFR Part 20

Administrative practice and procedure, Claims, Veterans.

Dated: February 8, 2011.

Robert C. McFetridge,

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

For the reasons stated in the preamble, VA proposes to amend 38 CFR parts 3, 14, and 20 as follows:

PART 3—AJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, Subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. Add § 3.1010 to read as follows:

§ 3.1010 Substitution under 38 U.S.C. 5121A following death of a claimant.

(a) *Eligibility.* If a claimant dies on or after October 10, 2008, a person eligible for accrued benefits under § 3.1000(a) of this part (listed in 38 CFR. 3.1000(a)(1) through (5)) may, in priority order, request to substitute for the deceased claimant in a claim for periodic monetary benefits (other than insurance and servicemembers' indemnity) under laws administered by the Secretary, or an appeal of a decision with respect to such a claim, that was pending before the agency of original jurisdiction or the Board of Veterans' Appeals when the claimant died. Upon VA's grant of a request to substitute, the substitute may continue the claim or appeal on behalf of the deceased claimant for purposes of processing the claim or appeal to completion. Any benefits ultimately awarded are payable to the substitute and other members of a joint class, if any, in equal shares.

(b) *Time and place for filing a request.* A person may not substitute for a deceased claimant under this section unless the person files a request to substitute with the agency of original jurisdiction no later than one year after the claimant's death.

(c) *Request format.* (1) A request to substitute must be submitted in writing. At a minimum, a request to substitute must include the word "substitute" or "substitution," the applicable claim number or appeal number, and the names of the deceased claimant and the person requesting to substitute.

(2) In lieu of a specific request to substitute, a claim for accrued benefits, death pension, or dependency and indemnity compensation by an eligible person listed in 38 CFR 3.1000(a)(1) through (5) is deemed to include a request to substitute if a claim for periodic monetary benefits (other than insurance and servicemembers' indemnity) under laws administered by the Secretary, or an appeal of a decision with respect to such a claim, was pending before the agency of original jurisdiction or the Board of Veterans' Appeals when the claimant died. A claimant for accrued benefits, death pension, or dependency and indemnity compensation may waive the right to substitute.

(d) *Evidence of eligibility.* A person filing a request to substitute must provide evidence of eligibility to substitute. If a person's request to substitute does not include evidence of eligibility when it is originally submitted and the person may be an eligible person, the Secretary will notify the person—

(1) Of the evidence of eligibility required to complete the request to substitute;

(2) That VA will take no further action on the request to substitute unless VA receives the evidence of eligibility; and

(3) That VA must receive the evidence of eligibility no later than 60 days after the date of notification or one year after the claimant's death, whichever is later, or VA will deny the request to substitute.

(e) *Decisions on substitution requests.* Subject to the provisions of § 20.1302 of this chapter, the agency of original jurisdiction will decide in the first instance all requests to substitute, including any request to substitute in an appeal pending before the Board of Veterans' Appeals.

(1) *Notification.* The agency of original jurisdiction will provide written notification of the granting or denial of a request to substitute to the person who filed the request, together with notice in accordance with § 3.103(b)(1).

(2) *Appeals.* The denial of a request to substitute may be appealed to the Board of Veterans' Appeals pursuant to 38 U.S.C. 7104(a) and 7105.

(3) *Joint class representative.* (i) A *joint class* means a group of two or more persons eligible to substitute under the same priority group under 38 CFR 3.1000(a)(1) through (a)(5), e.g., two or more surviving children.

(ii) In the case of a joint class of potential substitutes, only one person of the joint class may be a substitute at any one time. The first eligible person in the joint class to file a request to substitute will be the substitute representing the joint class.

(f) *Adjudications involving a substitute.* The following provisions apply with respect to a claim or appeal in which a survivor has been substituted for the deceased claimant:

(1) *Notice under 38 CFR 3.159.* VA will send notice under 38 CFR 3.159(b), "Department of Veterans Affairs assistance in developing claims," to the substitute only if the required notice was not sent to the deceased claimant or if the notice sent to the deceased claimant was inadequate.

(2) *Expansion of the claim not permitted.* A substitute may not add an issue to or expand the claim. However, a substitute may raise new theories of entitlement in support of the claim.

(3) *Submission of evidence and other rights.* A substitute has the same rights regarding hearings, representation, appeals, and the submission of evidence as would have applied to the claimant had the claimant not died. However, rights that may have applied to the claimant prior to death but which cannot practically apply to a substitute, such as the right to a medical examination, are not available to the substitute. The substitute must complete any action required by law or regulation within the time period remaining for the claimant to take such action on the date of his or her death. The time remaining to take such action will start to run on the date of the mailing of the decision granting the substitution request.

(4) *Board of Veterans' Appeals procedures.* The rules and procedures governing appeals involving substitutes before the Board of Veterans' Appeals are found in parts 19 and 20 of this chapter.

(g) *Limitations on substitution.* The following limitations apply with respect to substitution:

(1) *A claim or appeal must be pending.* (i) A claim is considered to be pending if the claimant had filed the claim with an agency of original jurisdiction but dies before the agency of original jurisdiction makes a decision on the claim. If the agency of original jurisdiction has decided a claim before the claimant dies, but the claimant dies before filing a Notice of Disagreement, no claim or appeal is pending for purposes of this section.

(ii) An appeal is considered to be pending if a claimant filed a notice of disagreement in response to a notification from an agency of original jurisdiction of its decision on a claim, but dies before the Board of Veterans' Appeals issues a final decision on the appeal. If the Board issued a final decision on an appeal prior to the claimant's death, the appeal is not pending for purposes of this section, even if the 120-day period for appealing the Board's decision to the Court of Appeals for Veterans Claims has not yet expired.

(2) *Benefits awarded.* Any benefits ultimately awarded are limited to any past-due benefits for the time period between the effective date of the award and what would have been the effective date of discontinuance of the award as a result of the claimant's death.

(3) *Benefits for last sickness and burial only.* When substitution cannot be established under any of the categories listed in 38 CFR 3.1000(a)(1) through (a)(4), only so much of any benefits ultimately awarded may be paid as may be necessary to reimburse the person who bore the expense of last sickness and burial. No part of any benefits ultimately awarded shall be used to reimburse any political subdivision of the United States for expenses incurred in the last sickness or burial of any claimant.

(4) *Substitution by subordinate members prohibited.* Failure to timely file a request to substitute, or a waiver of the right to request substitution, by a person of a preferred category of eligible person will not serve to vest the right to request substitution in a person in a lower category or a person who bore the expense of last sickness and burial; neither will such failure or waiver by a person or persons in a joint class serve to increase the amount payable to other persons in the class.

(5) *Death of a substitute.* If a substitute dies while a claim is pending before an agency of original jurisdiction or the Board, or an appeal of a decision on a claim is pending, another member of the same joint class or a member of the next preferred subordinate category listed in 38 CFR 3.1000(a)(1) through (5) may substitute for the deceased substitute but only if the person requesting the second substitution files a request to substitute no later than one year after the date of the claimant's death (not the date of the substitute's death).

PART 14—LEGAL SERVICES, GENERAL COUNSEL, AND MISCELLANEOUS CLAIMS

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

Authority: 5 U.S.C. 301; 28 U.S.C. 2671–2680; 38 U.S.C. 501(a), 512, 515, 5502, 5901–5905; 28 CFR part 14, appendix to part 14, unless otherwise noted.

4. Amend § 14.630 by adding paragraph (e) and revising the authority citation at the end of the section to read as follows:

§ 14.630. Authorization for a particular claim.

* * * * *

(e) With respect to the limitation in paragraph (b) of this section, a person who had been authorized under paragraph (a) of this section to represent a claimant who later dies and is replaced by a substitute pursuant to 38 CFR 3.1010 for purposes of processing the claim to completion will be permitted to represent the substitute if the procedures of 38 CFR 14.631(g) are followed.

* * * * *

(Authority: 38 U.S.C. 501(a), 5121A, 5903)

5. Amend § 14.631 by adding paragraph (g) and revising the authority citation at the end of the section to read as follows:

§ 14.631 Powers of attorney; disclosure of claimant information.

* * * * *

(g) If a request to substitute is granted pursuant to 38 CFR 3.1010, then a new VA Form 21–22, "Appointment of Veterans Service Organization as Claimant's Representative," or VA Form 21–22a, "Appointment of Individual as Claimant's Representative," under paragraph (a) of this section is required in order to represent the substitute before VA. If the substitute desires representation on a one-time basis pursuant to § 14.630(a), a statement signed by the person providing representation and the substitute that no compensation will be charged or paid for the services is also required.

* * * * *

(Authority: 38 U.S.C. 501(a), 5121A, 5902, 5903, 5904)

PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

6. The authority citation for part 20 continues to read as follows:

Authority: 38 U.S.C. 501(a) and as noted in specific sections.

Subpart J—Action by the Board

7. Amend § 20.900 by revising paragraph (a) and the authority citation at the end of the section to read as follows:

§ 20.900 Rule 900. Order of consideration of appeals.

(a) *Docketing of appeals.* Applications for review on appeal are docketed in the order in which they are received.

(1) Cases returned to the Board following action pursuant to a remand assume their original places on the docket.

(2) Cases returned to the Board following the grant of a substitution request or pursuant to an appeal of a denial of a substitution request assume the place on the docket that was originally held by the deceased appellant.

* * * * *

(Authority: 38 U.S.C. 5121A, 7107, Pub. L. 103–446, § 302)

Subpart L—Finality

8. Revise § 20.1106 to read as follows:

§ 20.1106 Rule 1106. Claim for death benefits by survivor—prior unfavorable decisions during veteran's lifetime.

Except with respect to benefits under the provisions of 38 U.S.C. 1311(a)(2) and 1318, and certain cases involving individuals whose Department of Veterans Affairs benefits have been forfeited for treason or for subversive activities under the provisions of 38 U.S.C. 6104 and 6105, issues involved in a survivor's claim for death benefits will be decided without regard to any prior disposition of those issues during the veteran's lifetime. Cases in which a person substitutes for a deceased veteran under 38 U.S.C. 5121A are not claims for death benefits and are not subject to this section. Cases in which a person substitutes for a deceased death benefits claimant under 38 U.S.C. 5121A are claims for death benefits subject to this section.

(Authority: 38 U.S.C. 5121A, 7104(b))

Subpart N—Miscellaneous

9. Revise § 20.1302 to read as follows:

§ 20.1302 Rule 1302. Death of appellant during pendency of appeal before the Board.

(a) *General.* An appeal pending before the Board of Veterans' Appeals when the appellant dies will be dismissed without prejudice. A person eligible for substitution under § 3.1010 of this chapter may file with the agency of original jurisdiction a request to substitute for the deceased appellant. If the agency of original jurisdiction grants the request to substitute, the case will assume its original place on the docket pursuant to Rule 900 (§ 20.900(a)(2) of this part). If the agency of original jurisdiction denies the request to substitute and the person requesting to substitute appeals that decision to the Board, the appeal regarding eligibility to substitute will assume the same place on the docket as the original claim pursuant to Rule 900 (§ 20.900(a)(2) of this part).

(b) *Exception.* (1) If a hearing request is pending pursuant to Rule 704 (§ 20.704 of this part) when the appellant dies, the agency of original jurisdiction may take action on a request to substitute without regard to whether the pending appeal has been dismissed by the Board, if the request is submitted in accordance with § 3.1010 of this chapter.

(2) If the agency of original jurisdiction grants the request to substitute, the Board of Veterans' Appeals can then take the testimony of the substitute at a hearing held pursuant to Rule 700 *et seq.* (§ 20.700 *et seq.* of this part). If the substitute desires representation at the hearing, he or she must appoint a representative prior to the hearing pursuant to § 14.631(g) of this chapter.

(Authority: 38 U.S.C. 5121A, 7104(a))

10. Revise § 20.1304, paragraph (b)(1) introductory text and the authority citation at the end of the section to read as follows:

§ 20.1304 Rule 1304. Request for change in representation, request for personal hearing, or submission of additional evidence following certification of an appeal to the Board of Veterans' Appeals.

* * * * *

(b) * * *

(1) *General rule.* Subject to the exception in paragraph (b)(2) of this section, following the expiration of the period described in paragraph (a) of this section, the Board of Veterans' Appeals will not accept a request for a change in representation, a request for a personal hearing, or additional evidence except when the appellant demonstrates on motion that there was good cause for the delay. Examples of good cause include, but are not limited to, illness of the appellant or the representative which precluded action during the period; death of an individual representative; illness or incapacity of an individual representative which renders it impractical for an appellant to continue with him or her as representative; withdrawal of an individual representative; the discovery of evidence that was not available prior to the expiration of the period; and delay in transfer of the appellate record to the Board which precluded timely action with respect to these matters. Such motions must be in writing and must include the name of the veteran; the name of the claimant or appellant if other than the veteran (e.g., a veteran's survivor, a guardian, or a fiduciary appointed to receive VA benefits on an individual's behalf) or the name of any substitute claimant or appellant; the applicable Department of Veterans Affairs file number; and an explanation of why the request for a change in representation, the request for a personal hearing, or the submission of additional evidence could not be accomplished in a timely manner. Such motions must be filed at the following address: Director, Management and Administration (01E), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420. Depending upon the ruling on the motion, action will be taken as follows:

* * * * *

(Authority: 38 U.S.C. 5121A, 5902, 5903, 5904, 7104, 7105, 7105A)

[FR Doc. 2011–3196 Filed 2–14–11; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 1

[FRL–9267–2]

Notice of a Public Meeting: Environmental Justice Considerations for Drinking Water Regulatory Efforts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is hosting a public meeting to discuss and solicit input on environmental justice considerations related to several upcoming regulatory efforts. These regulatory efforts include the long-term revisions to the Lead and Copper Rule (LCR) and the third Regulatory Determinations from the drinking water Contaminant Candidate List 3. EPA recently announced its intentions to develop drinking water regulatory actions for perchlorate and carcinogenic volatile organic compounds (VOCs). While the Agency is in the very preliminary stages of developing the regulatory efforts for perchlorate and carcinogenic VOCs, EPA plans to discuss these actions at this meeting. 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. EPA is holding this meeting to provide information to communities and an opportunity for communities to provide input on the LCR, Regulatory Determinations 3, perchlorate, and carcinogenic VOCs rulemaking efforts.

Date and Location: The public meeting will be held in Washington, DC on Thursday, March 3, 2011, from 10 a.m. to 5 p.m., Eastern Daylight Time (EDT). Participants will be notified of the specific meeting room upon confirmation of registration. Teleconferencing will be available for individuals unable to attend the meeting in person.

FOR FURTHER INFORMATION CONTACT: For general information about this meeting, contact Lameka Smith, Standards and Risk Management Division, Office of Ground Water and Drinking Water; by

phone (202) 564–1629 or by sending an e-mail to *smith.lameka@epa.gov.* For additional information about the Lead and Copper Rule, please visit: *http://water.epa.gov/lawsregs/rulesregs/sdwa/lcr/index.cfm.* For additional information about the drinking water contaminant candidate list and the regulatory determinations process, please visit: *http://water.epa.gov/scitech/drinkingwater/dws/ccl/index.cfm.* For additional information about perchlorate, please visit: *http://water.epa.gov/drink/contaminants/unregulated/perchlorate.cfm.*

For additional information about carcinogenic VOCs, please visit the Drinking Water Strategy homepage: *http://water.epa.gov/lawsregs/rulesregs/sdwa/dwstrategy/index.cfm.*

SUPPLEMENTARY INFORMATION:

Registration: Individuals planning to attend in person or by teleconference must register for the meeting by contacting Junie Percy, of IntelliTech at (937) 427–4148 ext. 210 or by sending an e-mail to *junie.percy@itsysteminc.com* no later than Friday, February 28, 2011. Additional information pertaining to the meeting will be provided upon confirmation of registration. There is no charge for attending this public meeting, but seats and phone lines are limited, so register as soon as possible.

Special Accommodations: For information on access or request for special accommodations for individuals with disabilities, please contact Lameka Smith, Office of Ground Water and Drinking Water, U.S. Environmental Protection Agency; by telephone (202) 564–1629 or by sending an e-mail to *smith.lameka@epa.gov.* Please allow at least five business days prior to the meeting to allow time to process your request.

Dated: February 10, 2011.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 2011–3383 Filed 2–14–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 33

[Docket No. OST 2010–0298]

RIN 2105–AD83

Prioritization and Allocation Authority Exercised by the Secretary of Transportation Under the Defense Production Act

AGENCY: Office of the Secretary of Transportation (OST), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Department of Transportation's Office of the Secretary (OST) is initiating this proposed rulemaking to clarify the priorities and allocation authorities exercised by the Secretary of Transportation (Secretary) under title 1 of the Defense Production Act of 1950 (Defense Production Act), and to set forth the administrative procedures by which the Secretary will exercise this authority. This proposed rule complies with the requirement in the Defense Production Act Reauthorization of 2009 (Pub. L. 111–67) to issue final rules establishing standards and procedures by which the priorities and allocations authority is used to promote the national defense, under both emergency and nonemergency conditions, and is part of a multi-agency effort that forms the Federal Priorities and Allocations System.

DATES: *Comment Closing Date:* Comments must be received by March 17, 2011.

ADDRESSES: You may submit comments (identified by the agency name and DOT Docket ID Number OST–2010–0298) by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Instructions: You must include the agency name (Office of the Secretary, DOT) and Docket number (OST–2010–0298) for this notice at the beginning of your comments. You should submit two copies of your comments if you submit them by mail or courier. Note that all comments received will be posted without change to *http://www.regulations.gov* including any personal information provided and will be available to internet users. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit *http://DocketsInfo.dot.gov.*

Docket: For Internet access to the docket to read background documents and comments received, go to *http://www.regulations.gov.* Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Ave., SE., Docket Operations, M–30, West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Donna L. O'Berry, Office of the General Counsel, Department of Transportation, 1200 New Jersey Avenue, SE., Room W96–317, Washington, DC 20590; telephone: (202) 366–6136; e-mail: *donna.o'berry@dot.gov*; or Lloyd E. Milburn, Office of Intelligence, Security and Emergency Response, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590; telephone: (202) 366–4397; e-mail: *lloyd.milburn@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Defense Production Act of 1950 (Defense Production Act) (50 U.S.C. App. 2061 *et seq.*) was enacted during the Korean War to ensure the availability of resources to meet national security needs. The Defense Production Act provides a number of important authorities to expedite and expand the supply of critical resources from the U.S. industrial base to support the national defense. While Defense Production Act provisions initially focused on Department of Defense (DoD) acquisition needs, several significant changes to the Defense Production Act definition of national defense have been added over time to expand the definition from military, energy, and space activities, to include emergency preparedness activities conducted pursuant to title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) (42 U.S.C. 5121 *et seq.*) and the protection and restoration of critical infrastructure.

Section 101(a) of title I of the Defense Production Act (50 U.S.C. App. 2071) authorizes the President:

(1) To require that performance under contracts or orders (other than contracts of employment) which he deems necessary or appropriate to promote the national defense shall take priority over performance under any other contract or order, and, for the purpose of assuring such priority, to require acceptance and performance of such contracts or orders in preference to other contracts or orders by any person he finds to be capable of their performance, and (2) to allocate materials, services, and facilities in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate to promote the national defense.

Executive Order 12919, National Defense Industrial Resources Preparedness (June 3, 1994), as amended, delegates the President's authority under section 101 of the Defense Production Act to the heads of several departments and agencies. The President has delegated this authority to the Secretary of Transportation with respect to all forms of civil transportation.[1] While the Department of Transportation (DOT) is seeking comments on all aspects of the rulemaking, we are particularly interested in comments on the scope and applicability of the definition of civil transportation.

Section 202 of Executive Order 12919 provides that this delegated authority may only be used to support programs that have been determined in writing as necessary or appropriate to promote the national defense by the Secretary of Defense with respect to military production and construction, military assistance to foreign nations, stockpiling, outer space and directly related activities; the Secretary of Energy with respect to energy production and construction, distribution and use, and directly related activities; or the Secretary of Homeland Security with respect to essential civilian needs supporting national defense, including civil defense and continuity of government and directly related activities.

[1] Section 201 of Executive Order 12919 also delegates Defense Production Act section 101 authority to:

(1) The Secretary of Agriculture with respect to food resources, food resource facilities, and the domestic distribution of farm equipment and commercial fertilizer;

(2) The Secretary of Energy with respect to all forms of energy;

(3) The Secretary of Health and Human Services with respect to health resources;

(4) The Secretary of Defense with respect to water resources; and

(5) The Secretary of Commerce for all other materials, services, and facilities, including construction materials.

Executive Order 12656, Assignment of Emergency Preparedness Responsibilities, as amended, assigns Federal departments and agencies responsibilities for national security emergency preparedness. The Secretary of Transportation is assigned lead responsibility for, among other things,

(1) Developing plans to promulgate and manage overall national policies, programs, procedures, and systems to meet essential civil and military transportation needs in national security emergencies; (2) preparing to provide direction to all modes of civil transportation in national security emergencies, including air, surface, water, pipelines, and public storage and warehousing, to the extent such responsibility is vested in the Secretary for: (a) Implementation of priorities for all transportation resource requirements for service, equipment, facilities, and systems; and (b) allocation of transportation resource capacity; and (3) emergency management and control of civil transportation resources and systems, including privately owned automobiles, urban mass transit, intermodal transportation systems, the National Railroad Passenger Corporation and the St. Lawrence Seaway Development Corporation.

This proposed rule would set forth the policies and procedures by which the Secretary would carry out certain authorities and responsibilities assigned under Executive Order 12656.

The Defense Production Act Reauthorization of 2009 (Pub. L. 111–67, September 30, 2009) requires each Federal agency with delegated authority under section 101 of the Defense Production Act to issue final rules establishing standards and procedures by which the priorities and allocations authority is used to promote the national defense, under both emergency and non-emergency conditions. Congress further directed that, to the extent practicable, the Federal agencies should work together to develop a consistent and unified Federal priorities and allocations system.

In order to meet this mandate, DOT has worked in conjunction with the Departments of Agriculture, Commerce, Defense, Energy, Health and Human Services, and Homeland Security to develop common provisions that can be used by each Department in its own regulation. Common provisions among the Departments would provide consistency and uniformity for how the Federal priorities and allocations are applied. However, each Department would supplement in its own regulation, as necessary, the common provisions in order to provide additional standards and procedures unique to its resource area. The six regulations to be promulgated by each Department with delegated Defense Production Act title I authority would be commonly referred to as the Federal Priorities and Allocations System (FPAS) of rules.

DOT's proposed regulation to form part of the FPAS would be known as the Transportation Priorities and Allocations System (TPAS).[2] Although DOT has developed procedures for implementing this authority through Departmental orders and other internal documents and protocols, DOT now proposes to establish a regulatory framework through TPAS to implement these authorities through this rulemaking. While TPAS adopts the common standards established under the FPAS, it would also include requirements that are specific to civil transportation. Transportation services covered under TPAS would include the movement of persons and property by all modes of civil transportation in commerce and related public storage and warehousing, ports, services, equipment and facilities.

DOT's Maritime Administration (MARAD) currently has regulations in 46 CFR that are based on Defense Production Act section 101 authority and is currently reviewing these regulations to determine if any modifications are necessary to bring them into conformance with TPAS.

Generally speaking, the transportation sector is very robust and even in emergencies DOT expects that the normal interactions between civilian transportation providers and those using their services will be maintained or that it will be possible to address any disruptions that may occur without the need for DOT to employ its priorities and allocations authority. Although DOT is developing a system to be used in emergency and non-emergency situations, DOT anticipates that only an extreme crisis would trigger the need to use DOT's authorities under this proposed rule. DOT has conducted response activities to multiple crises over the last decade and at no time

[2] The other parts that make up FPAS are:

(1) Agricultural Priorities and Allocations System promulgated by the Department of Agriculture;

(2) Defense Priorities and Allocations System promulgated by the Department of Commerce;

(3) Energy Priorities and Allocations System promulgated by the Department of Energy;

(4) Health Resources Priorities and Allocations System promulgated by the Department of Health and Human Service; and

(5) Water Resources Priorities and Allocations System promulgated by the Department of Defense.

during the most severe situation was DOT required to use its delegated Defense Production Act priority or allocation authority to marshal adequate transportation resources to complete its mission. Instead, there was sufficient transportation capacity available through normal interactions or alternative arrangements between transportation service providers and end users to meet the demand or the disruption was addressed through other means.

II. Section-by-Section Analysis

Subpart A—General

Section 33.1 Purpose of this part. This section explains that the purpose of this rule would be to provide guidance and procedures for use of the Defense Production Act priorities and allocations authority with respect to civil transportation, in accordance with the delegation of authority provided in section 201 of Executive Order 12919. This section also lists other agency regulations that, along with this regulation, would form the Federal Priorities and Allocations System.

Section 33.2 Priorities and allocations authority. This section would summarize the delegations of priorities and allocations authority in section 201 of Executive Order 12919. This section would also explain that these delegated authorities may only be used to support programs that have been determined in writing as necessary or appropriate to promote the national defense by the Secretaries of Defense, Energy, or Homeland Security in their respective areas of jurisdiction, as specified in section 202 of Executive Order 12919.

Section 33.3 Program eligibility. This proposed section lists the categories of programs eligible for priorities and allocations support, in accordance with the definition of "national defense" in section 702 of the Defense Production Act (50 U.S.C. App. § 2152).

Subpart B—Definitions

Section 33.20 Definitions. This section would contain definitions used in this part. Some definitions are drawn from other sources, as follows:

- Section 702 of the Defense Production Act (50 U.S.C. App. § 2152)—"critical infrastructure," "facilities," "homeland security," "materials," "national defense," "person," and "services."
- Section 901 of Executive Order 12919—"civil transportation," "energy," "farm equipment," "fertilizer," "food resources," "food resource facilities," "health resources," and "water resources."
- The current Defense Priorities and Allocations System (DPAS) regulation—"allotment" (with technical modifications), "approved program" (with technical modifications), "construction," "delegate agency," "directive," "item," "maintenance and repair and operating supplies" or "MRO," "official action" (with technical modifications), "rated order," and "set-aside" (with technical modifications).
- Section 602 of the Stafford Act (42 U.S.C. 5195a)—"emergency preparedness" and "hazard."
- Section 18.3 of 49 Code of Federal Regulations—"local government" and "state."

The definitions of "allocation," "allocation authority," and "allocation order" are based on language in section 101 of the Defense Production Act that describes the allocation authority of the President.

"Defense Production Act" means the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et seq.*).

"Planning order" defines an administrative tool used by DOT's Maritime Administration.

"Resource agency" refers to one of the six Federal departments that has been delegated Defense Production Act priorities and allocations authority under section 201 of Executive Order 12919.

"Secretary" refers to the Secretary of Transportation.

"Stafford Act" refers to title VI (Emergency Preparedness) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195–5197g).

Subpart C—Placement of Rated Orders

Section 33.30 Delegation of authority. This section proposes to describe the delegation of priorities and allocations authority from the President to the Secretary of Transportation for all forms of civil transportation.

DOT anticipates receiving a delegation of authority from the Department of Commerce to enable DOT to place priority ratings for items and materials necessary for civil transportation resources that fall under the Department of Commerce's jurisdiction. For example, such "flow down" items might include brakes, tires, and engine parts necessary for motor coaches to operate under a priority order for the provision of civil transportation. In instances where DOT is placing such a "flow down" priority rating under authority delegated from the Department of Commerce, the time period for acceptance and rejection of the rated order set forth in TPAS applies, consistent with relevant sections of the Department of Commerce's regulations. Transportation service providers should work with their parts and component providers to ensure they are aware that they may be asked to provide necessary parts or components on an expedited basis.

Section 33.31 Priority ratings. This section would explain the following: "DO" and "DX" rating symbols; program identification symbols; order of precedence for directives and ratings; and priority ratings that consist of a rating symbol and a program identification symbol.

Generally speaking, most contracts or orders for transportation services would be unrated. However, DOT may authorize priority rating authority if necessary to support a program that has been determined as necessary or appropriate to promote the national defense. A "DO" rating authorization may be authorized if the service or item is in critical or urgent need. For example, in 1990, DOT's Federal Aviation Administration was granted "DO" rating authority by DoD for specified procurements to support Civil Reserve Air Fleet use in Operation Desert Shield. In 2002, the Transportation Security Administration, which was then part of DOT, was granted "DO" rating authorization for contracts to support the acquisition of Explosive Detection Systems machines. Finally, in 2005, DOT sponsored a priority rating request by a railroad operator to support the emergency delivery of generators and transfer switches to replace those destroyed by Hurricane Katrina. The Department of Commerce granted the company "DO" rating authority. A "DO" rated contract or order takes precedence over unrated contracts or orders.

A "DX" rating would be reserved for those services or items that are determined to support programs that are of the highest national defense urgency based on the requesting entity's mission objectives. A "DX" rating would take precedence over a "DO" rating. The Secretary of Transportation must approve all requests for a "DX" rating pertaining to civil transportation resources.

Program Identification Symbols (PIS) would be used to identify approved programs, meaning a program that has been determined by the Secretaries of DoD, DHS, or DOE, as appropriate, as necessary to promote the national defense. DOT currently has no approved programs, but anticipates working with Commerce, DHS, DoD or DOE, as appropriate, in the near future to

develop approved programs. The proposed PIS for DOT-approved programs would contain the letter "T" followed by a letter and a number; for example, T–L1. All approved programs would have equal status. The PIS would be combined with the appropriate priority rating authority, either DX or DO, to form the priority rating, for example DO–T–L1 or DX–T–L1. DOT is particularly interested in comments on its proposed PIS letter and number combination.

Section 33.32 Elements of a rated order. This section proposes to describe the four elements that must be included in a contract or order to make it a "rated order," in accordance with the standards and procedures provided in this part. The four elements are: (1) A priority rating; (2) specific delivery date(s) for materials or services covered in the rated order; (3) the signature of an individual authorized to place the rated order; and (4) a statement describing what is required of the rated order recipient, in accordance with procedures provided in this part.

This section also would include a provision for an additional statement to be included in a rated order involving emergency preparedness, which would require quicker action by the recipient to accept or reject the order. The justification for the expedited timeframes is explained below in the § 33.33 discussion.

Section 33.33 Acceptance and rejection of rated orders. This section would describe mandatory and optional conditions for acceptance or rejection of rated orders, as well as customer notification timeframes pertaining to acceptance or rejection. In general, a person would be required to accept a rated order if the person normally supplies the materials or services covered by the rated order and must do so regardless of any other orders on hand. Persons would be prohibited from charging higher prices, imposing different terms, or any other discriminatory practices for the rated order that are different from a comparable unrated order.

A person would be required to reject a rated order if unable to fill the order by the specified delivery date(s) or if the order would interfere with delivery under another rated order with a comparable or higher priority rating. In addition, a person would be required to reject a rated order if the person is prohibited by law from meeting the terms of the order; for example, the provider of the services contemplated in the order does not have current operating authority to perform the service. A person would have the option of rejecting a rated order if any one of a number of other conditions set forth in the regulation exists.

Under non-emergency conditions, the recipient of a rated order would be required to accept or reject the rated order within fifteen calendar days for a "DO"-rated order or ten working days for a "DX"-rated order. (*See* § 33.33(d)) DOT is proposing calendar days instead of working days in order to provide greater specificity for deadlines. However, DOT is interested in comments on whether the use of calendar days could lead to any unintended consequences for recipients of a rated order.

While the deadlines discussed above would be appropriate for non-emergency circumstances, they are too long for emergency conditions when quick procurement actions may be needed to help save lives, protect property, or restore services. Transportation services are unique in that they are often the first services needed to move people out of harm's way and to move rescue and response personnel and supplies into a disaster area; thus, transportation services often must be marshaled on very short notice. DOT proposes in this rule that orders placed for the purpose of emergency preparedness must be accepted or rejected within 6 hours from receipt of the order if the order is issued in response to a hazard that has occurred and within 12 hours from receipt of the order if the order is issued to prepare for an imminent hazard.

Prior to 2008, DOT was the lead Federal agency responsible for providing and managing emergency transportation services, including those necessary for mass evacuations.[3] Our experiences while carrying out this mission, which included managing the massive transportation needs for the evacuation of persons and the movement of supplies, equipment and teams in response to Hurricanes Katrina and Rita, confirm that transportation providers can respond within these expedited timeframes. Specifically, the contract that DOT had in place for transportation services required the contractor to acknowledge an order for service within one hour of receiving the order and to make transportation equipment available at the shipment place of origin to begin moving cargo and passengers within four hours from receipt of the order for service.[4]

In this proposed provision, DOT would only require acceptance or rejection of a rated order within an expedited timeframe and not actual fulfillment of the order within that timeframe. The expedited response periods proposed in this regulation are necessary in order for DOT to rapidly identify and obtain sufficient transportation resources to meet emergency response needs.

DOT is mindful, however, that some circumstances may necessitate closer coordination between DOT and the potential recipient of a rated order. For example, if a rated order is placed in preparation for an imminent hazard, such as a hurricane that is projected to make landfall in 13 hours, DOT obviously would not wish to learn at the end of the 12-hour window that the proposed supplier is unable to accept the rated order. In these situations, DOT would work closely with industry to identify and resolve any potential issues in order to meet the transportation requirements.

Not all regulations promulgated under FPAS contain such expedited notification requirements because those resources normally are not required immediately for emergency response as are transportation resources. However, for any orders issued under TPAS that "flow down" from the prime contractor to a subcontracted supplier of a necessary service, component, or part, the requirements of TPAS would apply to all subcontractors in the procurement or distribution chain. Therefore, transportation service providers should work with their suppliers to ensure they are aware that they may be asked to provide necessary services, parts, or components on an expedited basis.

Section 33.34 Preferential scheduling. This section would describe: (1) When a recipient of a rated order must modify production or delivery schedules to satisfy the delivery requirements of a rated order; (2) the order of precedence for rated, unrated, and conflicting orders; and (3)

[3] In 2007 DOT and DHS entered into a Memorandum of Understanding transferring the responsibility for evacuations and commodity and equipment movements to the Federal Emergency Management Agency (FEMA). New authority given to FEMA in the Post-Katrina Emergency Management Reform Act of 2006 necessitated redefining DOT's role for providing emergency transportation services and for designating the Federal lead for planning, coordinating and conducting evacuations of the general population.

[4] DOT's contract with Landstar Express America, Inc. contained the following requirements for Rapid Response Capability:

Within one (1) hour of receiving the initial Order for Service (OFS) from the Contracting Officer, the Contractor (Landstar) shall acknowledge receipt of the OFS by electronic commerce or fax.

Within four (4) hours of receipt of an OFS, the Contractor shall make transportation equipment available at the shipment place of origin to commence movement of cargo and passengers, using air and surface modes of transportation. The Contractor shall meet all pickup and transit deadlines.

the use of inventoried production items when needed to fill a rated order.

Section 33.35 Extension of priority ratings. This section would require that the recipient of a rated order must, in turn, use rated orders with suppliers to obtain items or services needed to fill a rated order. The requirement would apply to all contractors and subcontractors throughout the procurement chain necessary to fill the rated order.

Section 33.36 Changes or cancellations of priority ratings and rated orders. This section would describe the procedures for changing or cancelling a priority rating or the provisions of a rated order. In addition, this section would list types of modifications that do not constitute a new rated order.

Section 33.37 Use of rated orders. This section would describe the process and procedures for when the recipient of a rated order: (1) Must use rated orders to obtain items and services needed to fulfill the rated order; (2) may use a rated order to replace inventoried items that were used to fulfill the order; (3) may combine orders with different priority ratings or with unrated orders; and (4) may forgo use of rated orders for orders below certain thresholds.

Section 33.38 Limitations on placing rated orders. This section would describe specific circumstances when the use of rated orders would be prohibited. This section also would prohibit the use of TPAS to obtain rated orders for a resource under the resource jurisdiction of other agencies with delegated Defense Production Act priorities and allocations authority, unless specifically authorized by the resource agency.

Subpart D—Special Priorities Assistance

Section 33.40 General provisions. This section would explain the circumstances and procedures under which DOT would provide assistance in resolving problems related to priority rated contracts and orders. This section also would list the DOT points of contact and the form to be used to request assistance.

Section 33.41 Requests for priority rating authority. This section would establish the procedures to request rating authority under special circumstances. DOT may grant priority ratings for items and services not normally rated under the regulation in order to prevent a delay of a rated order. This section also would specify that rating authority for production or construction equipment must come from the Department of Commerce. Finally, this section would explain when DOT may authorize the use of a priority rating on an order to a supplier in advance of the issuance of a rated prime contract, and the factors DOT would consider in deciding whether to grant such a request.

Section 33.42 Examples of assistance. This section would list examples of when special priority assistance may be provided.

Section 33.43 Criteria for assistance. This section would require that a request for special priorities assistance be timely, that there be an urgent procurement need for the item, and that the applicant has made a reasonable effort to resolve the problem for which assistance is needed.

§ 33.44 Instances where assistance may not be provided. This section would list examples of when special priority assistance may not be provided.

Section 33.45 Assistance programs with other nations. Reserved.

Subpart E—Allocation Actions

Section 33.50 Policy. This section would explain the policy of the Federal Government regarding use of the allocations authority, which is based on the statutory language in section 101 of the Defense Production Act and the legislative history of section 101.[5] Specifically, allocation authority would only be used when priority authority is unable to provide a sufficient supply of a material, service, or facility to meet the national defense, or when the use of priority authority would cause a severe and prolonged disruption in the supply of materials, services, or facilities available to support normal U.S. economic activities.

Allocation authority would not be used to ration materials or services at the retail level. In other words, allocation authority would not be used to control how much of a product or service a person may have for personal use. For example, DOT could use allocation authority to require the nation's bus companies to dedicate 40% of their bus fleet to a designated emergency, but DOT could not use allocation authority to tell a bus company how to distribute its buses to serve its commercial customers or to tell a bus company how many tickets it could sell to persons in a given month.

Allocation orders would be distributed equitably among similarly situated suppliers of the resources being allocated and would not require any person to relinquish a disproportionate share of the civilian market. Allocation authority would not apply to resources owned by the Federal Government, as those resources may be used by the controlling Federal entity in accordance with other governing laws. Nor, generally speaking, would allocation authority apply to resources owned by States, local governments or Native American tribes, as that could potentially undermine other Federal laws. For example, the Stafford Act is designed "to provide an orderly and continuing means of assistance by the Federal Government to States and local governments in carrying out their responsibilities to alleviate the suffering and damage which results from * * * disasters. * * *" Thus, it would be counterproductive for the Federal Government to consider allocating for its own use the very resources the State, local or tribal government could be counting on as part of its response efforts.

The Civil Reserve Air Fleet (CRAF) and the Voluntary Intermodal Sealift Agreement (VISA) are two examples of DOT's use of its allocation authority.[6] Concerning CRAF, under the terms of a Memorandum of Understanding, DOT develops plans and allocates aircraft to the CRAF program based on DoD requirements. DOT advises DoD if it intends to allocate fewer aircraft than requested by DoD, notifies DoD if a particular level of CRAF activation will have a serious adverse impact on the civil air carrier's ability to provide essential service, and works with DoD to identify alternatives or determine ways to minimize the impact. DOT publishes a periodic allocation of aircraft, by registration or "N" number, of each airline participating in the CRAF program.

The VISA program is a preparedness program designed to make intermodal shipping services and systems available to DoD as required to support the emergency deployment and sustainment of U.S. military forces. This is done through cooperation among the

[5] Legislative history indicates that Congress was concerned that national defense requirements, during times of emergency, could consume much of the output of key industrial sectors and selected producers within some sectors. Allocations authority was viewed as a means to ensure an equitable distribution of national defense demand among potential suppliers to avoid disproportionate impacts on each supplier's share of the civilian market.

[6] CRAF was formed through a joint agreement between DoD and the Department of Commerce. Executive Order 10999 placed responsibility for administration of the CRAF program in the Department of Commerce as a function of the Office of Emergency Transportation. In 1967, the Office of Emergency Transportation transferred in its entirety with its mission, functions and staff into the new Department of Transportation. Responsibility for carrying out the Secretary's role with respect to the CRAF program now resides with the Office of Intelligence, Security and Emergency Response.

maritime industry, DOT and DoD pursuant to a voluntary agreement entered into in accordance with Section 708 of the Defense Product Act (50 U.S.C. App. § 2158). During a Stage III activation, the Secretary of DoD will request the Secretary of DOT to allocate sealift capacity based on DoD requirements.

Section 33.51 General procedures. The proposed procedures set out in this section and in proposed section 33.52 are intended to provide a reasonable assurance that allocation authority would only be used in situations where such authority is justified. Section 33.51 would set out the specific requirements and findings that DOT must meet before it could use its allocation authority.

One requirement would be for DOT to obtain a written determination from either DoD, DHS or DOE, as appropriate, that the program DOT intends to support through its allocation authority is necessary or appropriate to support the national defense. As previously mentioned, section 202 of Executive Order 12919 requires such a finding before DOT can take an allocation action. Additionally, DOT would be required to provide a detailed description of the situation creating the need for allocation and the specific objectives to be obtained through the allocation action; a list of the materials, services, or facilities to be allocated, and of the sources that will be subject to the allocation action; a detailed description of the requirements to be contained in the allocation action, to include the percentage or quantity of capacity to be allocated and the duration of the allocation action; and an evaluation of the potential impact on the civilian market and proposed actions to mitigate any disruption of the civilian market.

Section 33.52 Controlling the general distribution of a material in the civilian market. This section would provide procedures for making the findings required by section 101(b) of the Defense Production Act and section 201(d) of Executive Order 12919. Defense Production Act section 101(b) states that the priorities and allocations authority shall not be used to control the general distribution of any material in the civilian market unless the President finds (1) that such material is a scarce and critical material essential to the national defense, and (2) that the requirements of the national defense for such material cannot otherwise be met without creating a significant dislocation of the normal distribution of such material in the civilian market to such a degree as to create appreciable hardship. Section 201(d) of Executive Order 12919 directs each agency with delegated authority under section 101 of the Defense Production Act to make the finding required by section 101(b) and submit the finding for the President's approval through the Assistant to the President for National Security Affairs. By definition under the Defense Production Act, services, including transportation services, are not considered a "material" as contemplated in section 101(b) of the Defense Production Act or section 201(d) of Executive Order 12919.

Section 33.53 Types of allocation orders. This section proposes to describe the three types of allocations orders DOT might issue: a set-aside; an allocation directive; or an allotment. A *set-aside* is an official action that would require a person to reserve a resource capacity in anticipation of receipt of rated orders. An *allocation directive* is an official action that would require a person to take or refrain from taking certain actions in accordance with its provisions. For example, an allocation directive could require a person to stop or reduce production of an item or service; prohibit the use of selected materials, services or facilities; divert supply of one type of material, service or facility to another; or to supply a specific quantity, size, shape, and type of an item or service within a specific time period. An *allotment* is an official action that would specify the maximum quantity of a material, service, or facility authorized for use in a specific program or application.

Section 33.54 Elements of an allocation order. This section would describe the minimum elements of an allocation order. These elements would be: (1) A detailed description of the required allocation action(s); (2) specific start and end calendar dates for each required allocation action; (3) the written signature on a manually placed order, or the digital signature or name on an electronically placed order, of the Secretary of DOT, which would certify that the order is authorized under this regulation and that the requirements of this part are being followed; (4) a statement that the order is certified for national defense use and that recipients are required to comply with the order; and (5) a copy of the Transportation Priorities and Allocations System regulation.

Section 33.55 Mandatory acceptance of an allocation order. This section would require a person to accept and comply with allocation orders if the person is capable of complying. If a person is unable to comply fully with the required actions specified in an allocation order, the person would be required to notify DOT immediately, explain the extent to which compliance is possible, and give reasons why full compliance is not possible. Furthermore, notifying DOT of possible non-compliance does not release the person from complying with the allocation order to the extent possible.

This section also would state that a person may not discriminate against an allocation order in any manner, such as by charging higher prices or imposing terms and conditions on allocation orders that are different from what the person imposed on contracts or orders for the same resource prior to receiving the allocation order.

Section 33.56 Changes or cancellations of an allocation order. This section would state that DOT may modify or cancel an allocation order.

Subpart F—Official Actions

Section 33.60 General provisions. This section would set out the specific official actions that DOT may take to implement the provisions of this regulation. These official actions include Rating Authorizations, Directives, Planning Orders, and Memoranda of Understanding.

Section 33.61 Rating authorizations. This section would define a rating authorization as an official action granting priority rating authority.

Section 33.62 Directives. This section would define a directive as an official action that requires a person to take or refrain from taking certain actions in accordance with its provisions. A priority directive would take precedence over rated orders, and allocation directives take precedence over a priority directive.

Section 33.63 Memoranda of Understanding. This section would explain that a Memorandum of Understanding is an official action that may be issued to reflect an agreement resolving a request for special priorities assistance. A Memorandum of Understanding may not be used to alter scheduling between rated orders, authorize the use of priority ratings, impose restrictions under this regulation, or take other official actions.

Subpart G—Compliance

Section 33.70 General provisions. This section would clarify that DOT has the authority to enforce or administer the Defense Production Act, this regulation, or an official action. Additionally, this section would state that willful violations of title I or section 705 of the Defense Production Act, this regulation, or an official DOT action, are criminal acts, punishable as provided in the Defense Production Act, and as set forth in § 33.74 below.

Section 33.71 Audits and investigations. This section would provide the procedures for conducting audits and investigations to ensure that the provisions of the Defense Production Act and other applicable statutes, this regulation, and official actions have been properly followed. This provision is limited to activities conducted under DPA authorities and would not limit the authority of DOT elements to initiate and conduct audits, investigations, or other inquiries under their specific statutes or authorities, nor would it affect the process for such audits, investigations or inquiries.

Section 33.72 Compulsory process. This section would explain the procedures DOT may use to seek a compulsory process if a person refuses to permit a duly authorized DOT representative to have access to any premises or any necessary information. For purposes of this regulation, compulsory process would mean the institution of appropriate legal action, including ex parte application for an inspection warrant or its equivalent in any forum of appropriate jurisdiction. Furthermore, compulsory process under this regulation may be sought in advance of an audit or investigation if DOT believes a person will refuse to comply with the audit or investigation.

Section 33.73 Notification of failure to comply. This section would provide procedures for notification of failure to comply with the Defense Production Act, other applicable statutes, this regulation, or an official DOT action.

Section 33.74 Violations, penalties, and remedies. This section would set out the penalties and related actions the Government may take for violations of the provisions of title I or sections 705 or 707 of the Defense Production Act, the priorities provisions of the Selective Service Act, when applicable, this regulation, or an official DOT action.

Section 33.75 Compliance conflicts. This section would require persons to immediately notify DOT if compliance with any provision of the Defense Production Act, other applicable statutes, this part, or an official action would prevent a person from filling a rated order or from complying with another provision of the Defense Production Act, other applicable statutes, this regulation, or an official action.

Subpart H—Adjustments, Exceptions, and Appeals

Section 33.80 Adjustments or exceptions. This section would describe the procedures necessary to request an adjustment or exception to a provision of this regulation or an official action on the grounds that it would create an undue or exceptional hardship or compliance is contrary to the intent of the Defense Production Act or this regulation. Such requests must be submitted in writing and the submission of a request for adjustment or exception does not relieve the requester from compliance while the request is being considered by DOT.

Section 33.81 Appeals. This section would provide procedures and timeframes for appealing a decision denying relief from a request for an adjustment or exception under this regulation. This section would provide for an expedited procedure for appeals involving a rated order placed for the purpose of emergency preparedness.

Subpart I—Miscellaneous Provisions

Section 33.90 Protection against claims. This section would provide that a person shall not be held liable for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with any provision of this regulation or an official action. This "hold harmless" provision applies even if any provision of this regulation or action is subsequently declared to be invalid by judicial or other competent authority.

Section 33.91 Records and reports. This section would require persons to create and preserve for at least three years accurate and complete records of any transaction covered by this regulation or an official action. This section also would detail the various requirements pertaining to the required records and reports. In addition, this section would describe the confidentiality provision of the Defense Production Act pertaining to information submitted under the Defense Production Act or this regulation.

Section 33.92 Applicability of this part and official actions. This section would establish the jurisdictional applicability of this regulation.

Section 33.93 Communications. This section would provide DOT contact information for communications concerning this regulation.

III. Regulatory Analyses and Notices

A. Executive Order 12866—Regulatory Planning and Review

This proposed rule is a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review. While the requirements under title I of the Defense Production Act have been in existence for years, these proposed regulations are new to the transportation industry and could be considered to raise novel legal or policy issues under section 3(f)(4) of Executive Order 12866. The proposed rule is not economically significant, however, as it would not have an annual economic impact of over $100 million.

B. Executive Order 13132—Federalism

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, Federalism. This proposed rule would not have a substantial direct effect on, or sufficient federalism implications for, the States, nor would it limit the policymaking discretion of the States. Therefore, the consultation requirements of Executive Order 13132 do not apply.

C. Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 Consultation and Coordination with Indian Tribal Governments. Because this proposed rule would not significantly or uniquely affect the communities of the Indian tribal governments and would not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 would not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have significant impact on a substantial number of small entities.

Potentially Affected Small Entities

Small entities include small businesses, small organizations and small governmental jurisdictions. For purposes of assessing the impacts of this proposed rule on small entities, a small business, as described in the Small Business Administration's Table of Small Business Size Standards Matched to North American Industry Classification System Codes (August 2008 Edition), has a maximum annual revenue of $33.5 million and a maximum of 1,500 employees (for some business categories, these numbers are lower). A small governmental jurisdiction is a government of a city, town, school district or special district with a population of less than 50,000. A small organization is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

This proposed regulation would set criteria under which DOT would authorize prioritization of certain orders or contracts, as well as criteria under which DOT would issue orders allocating materials, services, or facilities. Because the proposed rule would mainly be used for larger commercial transportation operations, DOT believes that small organizations and small governmental jurisdictions are unlikely to be affected by this proposed rule. To date, DOT has not exercised its existing priorities authority and has only exercised its existing allocations authority for one aviation program and one sealift program, both of which rely on voluntary engagement by industry. Therefore, DOT has no basis on which to estimate the number of small businesses that might be affected by promulgation of this proposed rule.

Potential Impacts

Although DOT cannot determine precisely the number of small entities that would be affected by this proposed rule, DOT believes that the overall impact on such entities would not be significant. In most instances, rated contracts would be fulfilled in addition to other (unrated) contracts and could actually increase the total amount of business for a firm that receives a rated contract. DOT expects that allocations would be ordered only in extraordinary circumstances, other than in the two well-established, voluntary programs discussed above. Furthermore, DOT believes that the provisions of section 701(e) of the Defense Production Act, which requires that small businesses be considered in allocations, indicate that any impact on small business would not be significant.

Conclusion

Therefore, for the reasons set forth above, I certify that this proposed rule, if implemented, would not have a significant economic impact on a substantial number of small entities.

E. Paperwork Reduction Act

This proposed rule contains an information collection requirement. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), DOT has submitted the information requirement to the Office of Management and Budget (OMB) for review. DOT estimates that the public reporting burden for submission of Form OST F 1254 is an average of 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

DOT is seeking public comment on any aspect of the information collection, including: (1) Whether the proposed collection is necessary for DOT's performance; (2) the accuracy of the estimate burdens; (3) ways for DOT to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. Organizations and individuals desiring to submit comments on the collection of information should direct them to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, Office of Information and Regulatory Affairs, Washington, DC 20505. Comments should also be sent to the Department of Transportation, Attn: Defense Production Act Activities Coordinator, Office of Intelligence, Security, and Emergency Response, 1200 New Jersey Avenue, SE., Washington DC 20590.

We will respond to any OMB or public comments on the information collection requirement contained in this proposed rule. DOT may not impose a penalty on persons for violating information collection requirements that do not display a current OMB control number, if required. DOT intends to obtain a current OMB control number for the information collection requirements that would result from this proposed rulemaking action. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**.

List of Subjects in 49 CFR Part 33

Administrative practice and procedure, Business and industry, Government contracts, National Defense, Reporting and recordkeeping requirements, Strategic and critical materials, Transportation.

Raymond LaHood,

Secretary of Transportation.

In consideration of the foregoing, the Department proposes to add Part 33 of Title 49, Code of Federal Regulations, to read as follows:

PART 33—TRANSPORTATION PRIORITIES AND ALLOCATION SYSTEM

Subpart A—General

Sec.

33.1 Purpose of this part.
33.2 Priorities and allocations authority.
33.3 Program eligibility.

Subpart B—Definitions

33.20 Definitions.

Subpart C—Placement of Rated Orders

33.30 Delegation of authority.
33.31 Priority ratings.
33.32 Elements of a rated order.
33.33 Acceptance and rejection of rated orders.
33.34 Preferential scheduling.
33.35 Extension of priority ratings.
33.36 Changes or cancellations of priority ratings and rated orders.
33.37 Use of rated orders.
33.38 Limitations on placing rated orders.

Subpart D—Special Priorities Assistance

33.40 General provisions.
33.41 Requests for priority rating authority.
33.42 Examples of assistance.
33.43 Criteria for assistance.
33.44 Instances where assistance may not be provided.
33.45 [Reserved]

Subpart E—Allocation Actions

33.50 Policy.
33.51 General procedures.
33.52 Controlling the general distribution of a material in the civilian market.
33.53 Types of allocation orders.
33.54 Elements of an allocation order.
33.55 Mandatory acceptance of an allocation order.
33.56 Changes or cancellations of an allocation order.

Subpart F—Official Actions

33.60 General provisions.
33.61 Rating Authorizations.
33.62 Directives.
33.63 Memoranda of Understanding.

Subpart G—Compliance

33.70 General provisions.
33.71 Audits and investigations.
33.72 Compulsory process.
33.73 Notification of failure to comply.
33.74 Violations, penalties, and remedies.
33.75 Compliance conflicts.

Subpart H—Adjustments, Exceptions, and Appeals

33.80 Adjustments or exceptions.
33.81 Appeals.

Subpart I—Miscellaneous Provisions

33.90 Protection against claims.
33.91 Records and reports.
33.92 Applicability of this part and official actions.
33.93 Communications.
Appendix I to Part 33—Sample Form OST F 1254
Appendix II to Part 33—Schedule 1 Approved Programs

Authority: Defense Production Act of 1950, as amended, 50 U.S.C. App. 2061–2171; Executive Order 12919, as amended, (59 FR 29525, June 7, 1994).

Subpart A—General

§ 33.1 Purpose of this part.

This part provides guidance and procedures for use of the Defense Production Act priorities and allocations authority with respect to all forms of civil transportation. The

guidance and procedures in this part are generally consistent with the guidance and procedures provided in other regulations that, as a whole, form the Federal Priorities and Allocations System. Guidance and procedures for use of the Defense Production Act priorities and allocations authority with respect to other types of resources are provided for: food resources, food resource facilities, and the domestic distribution of farm equipment and commercial fertilizer in the Agricultural Priorities and Allocation Systems at 7 CFR part 700; all forms of energy in the Energy Priorities and Allocations System regulation at 10 CFR part 217; health resources in the Health Resources Priorities and Allocations System at *[CFR citation to be inserted in the final rule];* water resources in the Water Resources Priorities and Allocations System at *[CFR citation to be inserted in the final rule];* and all other materials, services, and facilities, including construction materials in the Defense Priorities and Allocations System (DPAS) regulation at 15 CFR part 700.

§ 33.2 Priorities and allocations authority.

(a) Section 201 of Executive Order 12919 (59 FR 29525) delegates the President's authority under section 101 of the Defense Production Act to require acceptance and priority performance of contracts and orders (other than contracts of employment) to promote the national defense over performance of any other contracts or orders, and to allocate materials, services, and facilities as deemed necessary or appropriate to promote the national defense to:

(1) The Secretary of Agriculture with respect to food resources, food resource facilities, and the domestic distribution of farm equipment and commercial fertilizer;

(2) The Secretary of Energy with respect to all forms of energy;

(3) The Secretary of Health and Human Services with respect to health resources;

(4) The Secretary of Transportation with respect to all forms of civil transportation;

(5) The Secretary of Defense with respect to water resources; and

(6) The Secretary of Commerce for all other materials, services, and facilities, including construction materials.

(b) Section 202 of Executive Order 12919 states that the priorities and allocations authority delegated in section 201 of the order may be used only to support programs that have been determined in writing as necessary or appropriate to promote the national defense:

(1) By the Secretary of Defense with respect to military production and construction, military assistance to foreign nations, stockpiling, outer space, and directly related activities;

(2) By the Secretary of Energy with respect to energy production and construction, distribution and use, and directly related activities; and

(3) By the Secretary of Homeland Security with respect to essential civilian needs supporting national defense, including civil defense and continuity of government and directly related activities.

§ 33.3 Program eligibility.

Certain programs to promote the national defense are eligible for priorities and allocations support. These include programs for military and energy production or construction, military or critical infrastructure assistance to any foreign nation, homeland security, stockpiling, space, and any directly related activity. Other eligible programs include emergency preparedness activities conducted pursuant to title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 *et seq.*) and critical infrastructure protection and restoration.

Subpart B—Definitions

§ 33.20 Definitions.

The following definitions pertain to all sections of this part:

"Allocation" means the control of the distribution of materials, services, or facilities for a purpose deemed necessary or appropriate to promote the national defense.

"Allocation authority" means the authority of the Department of Transportation, pursuant to section 101 of the Defense Production Act, to allocate materials, services, and facilities for use in approved programs.

"Allocation order" means an official action to control the distribution of materials, services, or facilities for a purpose deemed necessary or appropriate to promote the national defense.

"Allotment " means an official action that specifies the maximum quantity of a material, service, or facility authorized for a specific use to promote the national defense.

"Approved program" means a program determined by the Secretary of Defense, the Secretary of Energy, or the Secretary of Homeland Security to be necessary or appropriate to promote the national defense, in accordance with section 202 of Executive Order 12919.

"Civil transportation" includes movement of persons and property by all modes of transportation in interstate, intrastate, or foreign commerce within the United States, its territories and possessions, and the District of Columbia, and, without limitation, related public storage and warehousing, ports, services, equipment and facilities, such as transportation carrier shop and repair facilities. However, "civil transportation" shall not include transportation owned or controlled by the Department of Defense, use of petroleum and gas pipelines, and coal slurry pipelines used only to supply energy production facilities directly. As applied herein, "civil transportation" shall include direction, control, and coordination of civil transportation capacity regardless of ownership.

"Construction" means the erection, addition, extension, or alteration of any building, structure, or project, using materials or products which are to be an integral and permanent part of the building, structure, or project. Construction does not include maintenance and repair.

"Critical infrastructure" means any systems and assets, whether physical or cyber-based, so vital to the United States that the degradation or destruction of such systems and assets would have a debilitating impact on national security, including, but not limited to, national economic security and national public health or safety.

"Defense Production Act" means the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et seq.*).

"Delegate Agency" means a government agency authorized by delegation from the Department of Transportation to place priority ratings on contracts or orders needed to support approved programs.

"Directive" means an official action that requires a person to take or refrain from taking certain actions in accordance with its provisions.

"Emergency preparedness" means all those activities and measures designed or undertaken to prepare for or minimize the effects of a hazard upon the civilian population, to deal with the immediate emergency conditions which would be created by the hazard, and to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by the hazard. Such term includes the following:

(1) Measures to be undertaken in preparation for anticipated hazards (including the establishment of appropriate organizations, operational plans, and supporting agreements, the recruitment and training of personnel, the conduct of research, the procurement and stockpiling of

necessary materials and supplies, the provision of suitable warning systems, the construction or preparation of shelters, shelter areas, and control centers, and, when appropriate, the nonmilitary evacuation of the civilian population).

(2) Measures to be undertaken during a hazard (including the enforcement of passive defense regulations prescribed by duly established military or civil authorities, the evacuation of personnel to shelter areas, the control of traffic and panic, and the control and use of lighting and civil communications).

(3) Measures to be undertaken following a hazard (including activities for fire fighting, rescue, emergency medical, health and sanitation services, monitoring for specific dangers of special weapons, unexploded bomb reconnaissance, essential debris clearance, emergency welfare measures, and immediately essential emergency repair or restoration of damaged vital facilities).

"Energy" means all forms of energy including petroleum, gas (both natural and manufactured), electricity, solid fuels (including all forms of coal, coke, coal chemicals, coal liquification, and coal gasification), and atomic energy, and the production, conservation, use, control, and distribution (including pipelines) of all of these forms of energy.

"Facilities" includes all types of buildings, structures, or other improvements to real property (but excluding farms, churches or other places of worship, and private dwelling houses), and services relating to the use of any such building, structure, or other improvement.

"Farm equipment" means equipment, machinery, and repair parts manufactured for use on farms in connection with the production or preparation for market use of food resources.

"Fertilizer" means any product or combination of products that contain one or more of the elements—nitrogen, phosphorus, and potassium—for use as a plant nutrient.

"Food resources" means all commodities and products, simple, mixed, or compound, or complements to such commodities or products, that are capable of being ingested by either human beings or animals, irrespective of other uses to which such commodities or products may be put, at all stages of processing from the raw commodity to the products thereof in vendible form for human or animal consumption. "Food resources" also means all starches, sugars, vegetable and animal or marine fats and oils, cotton, tobacco, wool, mohair, hemp, flax fiber, and naval stores, but does not mean any such material after it loses its identity as an agricultural commodity or agricultural product.

"Food resource facilities" means plants, machinery, vehicles (including on-farm), and other facilities required for the production, processing, distribution, and storage (including cold storage) of food resources, livestock and poultry feed and seed, and for the domestic distribution of farm equipment and fertilizer (excluding transportation thereof).

"Hazard" means an emergency or disaster resulting from—

(1) A natural disaster; or

(2) An accidental or man-caused event.

"Health resources" means materials, facilities, health supplies, and equipment (including pharmaceutical, blood collecting and dispensing supplies, biological, surgical textiles, and emergency surgical instruments and supplies) required to prevent the impairment of, improve, or restore the physical and mental health conditions of the population.

"Homeland security" includes efforts—

(1) To prevent terrorist attacks within the United States;

(2) To reduce the vulnerability of the United States to terrorism;

(3) To minimize damage from a terrorist attack in the United States; and

(4) To recover from a terrorist attack in the United States.

"Item" means any raw, in process, or manufactured material, article, commodity, supply, equipment, component, accessory, part, assembly, or product of any kind, technical information, process, or service.

"Local government" means a county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937) school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under state law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

"Maintenance and repair and operating supplies" or "MRO"—

(1) "Maintenance" is the upkeep necessary to continue any plant, facility, or equipment in working condition.

(2) "Repair" is the restoration of any plant, facility, or equipment to working condition when it has been rendered unsafe or unfit for service by wear and tear, damage, or failure of parts.

(3) "Operating supplies" are any resources carried as operating supplies according to a person's established accounting practice. Operating supplies may include hand tools and expendable tools, jigs, dies, fixtures used on production equipment, lubricants, cleaners, chemicals and other expendable items.

(4) MRO does not include items produced or obtained for sale to other persons or for installation upon or attachment to the property of another person, or items required for the production of such items; items needed for the replacement of any plant, facility, or equipment; or items for the improvement of any plant, facility, or equipment by replacing items which are still in working condition with items of a new or different kind, quality, or design.

"Materials" includes—

(1) Any raw materials (including minerals, metals, and advanced processed materials), commodities, articles, components (including critical components), products, and items of supply; and

(2) Any technical information or services ancillary to the use of any such materials, commodities, articles, components, products, or items.

"National defense" means programs for military and energy production or construction, military or critical infrastructure assistance to any foreign nation, homeland security, stockpiling, space, and any directly related activity. Such term includes emergency preparedness activities conducted pursuant to title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act and critical infrastructure protection and restoration.

"Official action" means an action taken by the Department of Transportation or another resource agency under the authority of the Defense Production Act, Executive Order 12919, and this part or another regulation under the Federal Priorities and Allocations System. Such actions include, but are not limited to, the issuance of Rating Authorizations, Directives, Set Asides, Allotments, Planning Orders, Memoranda of Understanding, Demands for Information, Inspection Authorizations, and Administrative Subpoenas.

"Person" includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative thereof, or any State or local government or agency thereof.

"Planning order" means notification of tentative arrangements to meet national

defense requirements issued in priority order or allocation order format, for planning purposes only.

"Rated order" means a prime contract, a subcontract, or a purchase order in support of an approved program issued in accordance with the provisions of this part.

"Resource agency" means any agency delegated priorities and allocations authority as specified in § 33.2.

"Secretary" means the Secretary of Transportation.

"Services" includes any effort that is needed for or incidental to—

(1) The development, production, processing, distribution, delivery, or use of an industrial resource or a critical technology item;

(2) The construction of facilities;

(3) The movement of individuals and property by all modes of civil transportation; or

(4) Other national defense programs and activities.

"Set-aside" means an official action that requires a person to reserve materials, services, or facilities capacity in anticipation of the receipt of rated orders.

"Stafford Act" means title VI (Emergency Preparedness) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5195–5197g).

"State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments. The term does not include any public and Indian housing agency under United States Housing Act of 1937.

"Water resources" means all usable water, from all sources, within the jurisdiction of the United States, which can be managed, controlled, and allocated to meet emergency requirements.

Subpart C—Placement of Rated Orders

§ 33.30 Delegation of authority.

The priorities and allocations authorities of the President under title I of the Defense Production Act with respect to all forms of civil transportation have been delegated to the Secretary of Transportation under section 201(a)(4) of Executive Order 12919 of June 3, 1994 (59 FR 29525).

§ 33.31 Priority ratings.

(a) Levels of priority.

(1) There are two levels of priority established by set of regulations that comprise the Federal Priorities and Allocations System regulations, identified by the rating symbols "DO" and "DX".

(2) All DO-rated orders have equal priority with each other and take precedence over unrated orders. All DX-rated orders have equal priority with each other and take precedence over DO-rated orders and unrated orders. (For resolution of conflicts among rated orders of equal priority, see § 33.34(c).)

(3) In addition, a Directive regarding priority treatment for a given item issued by the resource agency with priorities jurisdiction for that item takes precedence over any DX-rated order, DO-rated order, or unrated order, as stipulated in the Directive. (For a full discussion of Directives, see § 33.62.)

(b) Program identification symbols. Program identification symbols indicate which approved program is being supported by a rated order. DOT will use the letter "T" followed by a letter and a number for all transportation-related approved programs. Programs may be approved under the procedures of Executive Order 12919 at any time. Program identification symbols, in themselves, do not connote any priority.

(c) Priority ratings. A priority rating consists of the rating symbol—DO and DX—and the program identification symbol, such as DO–T–L1 or DX–T–L1 for a priority rating under TPAS.

§ 33.32 Elements of a rated order.

Each rated order must include:

(a) The appropriate priority rating (*e.g.* DO–T or DX–T);

(b) A required delivery date or dates. The words "immediately" or "as soon as possible" do not constitute a delivery date. A "requirements contract," "basic ordering agreement," "prime vendor contract," or similar procurement document bearing a priority rating may contain no specific delivery date or dates and may provide for the furnishing of items or service from time-to-time or within a stated period against specific purchase orders, such as "calls," "requisitions," and "delivery orders". These purchase orders must specify a required delivery date or dates and are to be considered as rated as of the date of their receipt by the supplier and not as of the date of the original procurement document;

(c) The written signature on a manually placed order, or the digital signature or name on an electronically placed order, of an individual authorized to sign rated orders for the person placing the order. The signature or use of the name certifies that the rated order is authorized under this part and that the requirements of this part are being followed; and

(d)(1) A statement that reads in substance:

This is a rated order certified for national defense use, and you are required to follow all the provisions of the Transportation Priorities and Allocations System regulation at 49 CFR part 33.

(2) If the rated order is placed in support of emergency preparedness requirements and expedited action is necessary and appropriate to meet these requirements, the following sentences should be added following the statement set forth in paragraph (d)(1) of this section:

This rated order is placed for the purpose of emergency preparedness. It must be accepted or rejected within *[INSERT NUMBER OF HOURS REQUIRED IN § 33.33]* hours from receipt of the order, in accordance with § 33.33(e) of the Transportation Priorities and Allocations System regulation at 49 CFR Part 33.

§ 33.33 Acceptance and rejection of rated orders.

(a) Mandatory acceptance.

(1) Except as otherwise specified in this section, a person shall accept every rated order received and must fill such orders regardless of any other rated or unrated orders that have been accepted.

(2) A person shall not discriminate against rated orders in any manner such as by charging higher prices or by imposing different terms and conditions than for comparable unrated orders.

(b) Mandatory rejection. Unless otherwise directed by the Department of Transportation for a rated order involving all forms of civil transportation:

(1) A person shall not accept a rated order for delivery on a specific date if unable to fill the order by that date. However, the person must inform the customer of the earliest date on which delivery can be made and offer to accept the order on the basis of that date. Scheduling conflicts with previously accepted lower rated or unrated orders are not sufficient reason for rejection under this section.

(2) A person shall not accept a DO-rated order for delivery on a date which would interfere with delivery of any previously accepted DO- or DX-rated orders. However, the person must offer to accept the order based on the earliest delivery date otherwise possible.

(3) A person shall not accept a DX-rated order for delivery on a date which would interfere with delivery of any previously accepted DX-rated orders, but must offer to accept the order based on the earliest delivery date otherwise possible.

(4) If a person is unable to fill all of the rated orders of equal priority status received on the same day, the person must accept, based upon the earliest delivery dates, only those orders which can be filled, and reject the other orders. For example, a person must accept order A requiring delivery on December 15 before accepting order B requiring delivery on December 31. However, the person must offer to accept the rejected orders based on the earliest delivery dates otherwise possible.

(5) A person shall not accept a rated order if the person is prohibited by Federal law from meeting the terms of the order.

(c) Optional rejection. Unless otherwise directed by the Department of Transportation for a rated order involving all forms of civil transportation, rated orders may be rejected in any of the following cases as long as a supplier does not discriminate among customers:

(1) If the person placing the order is unwilling or unable to meet regularly established terms of sale or payment;

(2) If the order is for an item not supplied or for a service not capable of being performed;

(3) If the order is for an item or service produced, acquired, or provided only for the supplier's own use for which no orders have been filled for two years prior to the date of receipt of the rated order. If, however, a supplier has sold some of these items or provided similar services, the supplier is obligated to accept rated orders up to that quantity or portion of production or service, whichever is greater, sold or provided within the past two years;

(4) If the person placing the rated order, other than the U.S. Government, makes the item or performs the service being ordered;

(5) If acceptance of a rated order or performance against a rated order would violate any other regulation, official action, or order of the Department of Transportation, issued under the authority of the Defense Production Act or another relevant statute.

(d) Customer notification requirements.

(1) Except as provided in paragraph (e) of this section, a person must accept or reject a rated order in writing or electronically within fifteen (15) calendar days after receipt of a DO rated order and within ten (10) calendar days after receipt of a DX rated order. If the order is rejected, the person must give reasons in writing or electronically for the rejection.

(2) If a person has accepted a rated order and subsequently finds that shipment or performance will be delayed, the person must notify the customer immediately, give the reasons for the delay, and advise of a new shipment or performance date. If notification is given verbally, written or electronic confirmation must be provided within five (5) calendar days.

(e) Exception for emergency preparedness conditions. If a rated order is placed for the purpose of emergency preparedness and includes the additional statement set forth in § 33.32(d)(2), a person must accept or reject the rated order and transmit the acceptance or rejection in writing or in an electronic format:

(1) Within six (6) hours after receipt of the order if the order is issued in response to a hazard that has occurred; or

(2) Within the greater of twelve (12) hours from receipt of the order or the time specified in the order, if the order is issued to prepare for an imminent hazard.

§ 33.34 Preferential scheduling.

(a) A person must schedule operations, including the acquisition of all needed production items or services, in a timely manner to satisfy the delivery requirements of each rated order. Modifying production or delivery schedules is necessary only when required delivery dates for rated orders cannot otherwise be met.

(b) DO-rated orders must be given production or performance preference over unrated orders, if necessary to meet required delivery dates, even if this requires the diversion of items being processed or ready for delivery or services being performed against unrated orders. Similarly, DX-rated orders must be given preference over DO-rated orders and unrated orders. (Examples: If a person receives a DO-rated order with a delivery date of June 3 and if meeting that date would mean delaying production or delivery of an item for an unrated order, the unrated order must be delayed. If a DX-rated order is received calling for delivery on July 15 and a person has a DO-rated order requiring delivery on June 2 and operations can be scheduled to meet both deliveries, there is no need to alter production schedules to give any additional preference to the DX-rated order.)

(c) *Conflicting rated orders.* (1) If a person finds that delivery or performance against any accepted rated orders conflicts with the delivery or performance against other accepted rated orders of equal priority status, the person shall give precedence to the conflicting orders in the sequence in which they are to be delivered or performed (not to the receipt dates). If the conflicting orders are scheduled to be delivered or performed on the same day, the person shall give precedence to those orders that have the earliest receipt dates.

(2) If a person is unable to resolve rated order delivery or performance conflicts under this section, the person should promptly seek special priorities assistance as provided in §§ 33.40 through 33.44. If the person's customer objects to the rescheduling of delivery or performance of a rated order, the customer should promptly seek special priorities assistance as provided in §§ 33.40 through 33.44. For any rated order against which delivery or performance will be delayed, the person must notify the customer as provided in § 33.33.

(d) If a person is unable to purchase needed production items in time to fill a rated order by its required delivery date, the person must fill the rated order by using inventoried production items. A person who uses inventoried items to fill a rated order may replace those items with the use of a rated order as provided in § 33.37(b).

§ 33.35 Extension of priority ratings.

(a) A person must use rated orders with suppliers to obtain items or services needed to fill a rated order. The person must use the priority rating indicated on the customer's rated order, except as otherwise provided in this part or as directed by the Department of Transportation. For example, if a person is in receipt of a DO–T–L1 rated order for a bus and needs to purchase brakes for its use, that person must use a DO–T–L1 rated order to obtain the needed brakes.

(b) The priority rating must be included on each successive order placed to obtain items or services needed to fill a customer's rated order. This continues from contractor to subcontractor to supplier throughout the entire procurement chain.

§ 33.36 Changes or cancellations of priority ratings and rated orders.

(a) The priority rating on a rated order may be changed or canceled by:

(1) An official action of the Department of Transportation; or

(2) Written notification from the person who placed the rated order.

(b) If an unrated order is amended so as to make it a rated order, or a DO rating is changed to a DX rating, the supplier must give the appropriate preferential treatment to the order as of the date the change is received by the supplier.

(c) An amendment to a rated order that significantly alters a supplier's

original production or delivery schedule shall constitute a new rated order as of the date of its receipt. The supplier must accept or reject the amended order according to the provisions of § 33.33.

(d) The following amendments do not constitute a new rated order: a change in shipping destination; a reduction in the total amount of the order; an increase in the total amount of the order which has negligible impact upon deliveries; a minor variation in size or design; or a change which is agreed upon between the supplier and the customer.

(e) If a person no longer needs items or services to fill a rated order, any rated orders placed with suppliers for the items or services, or the priority rating on those orders, must be canceled.

(f) When a priority rating is added to an unrated order, or is changed or canceled, all suppliers must be promptly notified in writing.

§ 33.37 Use of rated orders.

(a) A person must use rated orders to obtain:

(1) Items which will be physically incorporated into other items to fill rated orders, including that portion of such items normally consumed or converted into scrap or by-products in the course of processing;

(2) Containers or other packaging materials required to make delivery of the finished items against rated orders;

(3) Services, other than contracts of employment, needed to fill rated orders; and

(4) MRO needed to produce the finished items to fill rated orders.

(b) A person may use a rated order to replace inventoried items (including finished items) if such items were used to fill rated orders, as follows:

(1) The order must be placed within 90 days of the date of use of the inventory.

(2) A DO rating and the program identification symbol indicated on the customer's rated order must be used on the order. A DX rating may not be used even if the inventory was used to fill a DX-rated order.

(3) If the priority ratings on rated orders from one customer or several customers contain different program identification symbols, the rated orders may be combined. In this case, the program identification symbol "E1" must be used (*i.e.,* DO–T–E1).

(c) A person may combine DX- and DO-rated orders from one customer or several customers if the items or services covered by each level of priority are identified separately and clearly. If different program identification symbols are indicated on those rated orders of equal priority, the person must use the program identification symbol "E1" (*i.e.,* DO–T–E1 or DX–T–E1).

(d) Combining rated and unrated orders.

(1) A person may combine rated and unrated order quantities on one purchase order provided that:

(i) The rated quantities are separately and clearly identified; and

(ii) The four elements of a rated order, as required by § 33.32, are included on the order with the statement required in § 33.32(d) modified to read in substance:

This purchase order contains rated order quantities certified for national defense use, and you are required to follow all the provisions of the Transportation Priorities and Allocations System regulations at 49 CFR part 33 only as it pertains to the rated quantities.

(2) A supplier must accept or reject the rated portion of the purchase order as provided in § 33.33 and give preferential treatment only to the rated quantities as required by this part. This part may not be used to require preferential treatment for the unrated portion of the order.

(3) Any supplier who believes that rated and unrated orders are being combined in a manner contrary to the intent of this part or in a fashion that causes undue or exceptional hardship may submit a request for adjustment or exception under section 33.80.

(e) A person may place a rated order for the minimum commercially procurable quantity even if the quantity needed to fill a rated order is less than that minimum. However, a person must combine rated orders as provided in paragraph (c), if possible, to obtain minimum procurable quantities.

(f) A person is not required to place a priority rating on an order for less than $50,000, or one-half of the Simplified Acquisition Threshold (as established in the Federal Acquisition Regulations (FAR) (see FAR section 2.101) or in other authorized acquisition regulatory or management systems), whichever amount is greater, provided that delivery can be obtained in a timely fashion without the use of the priority rating.

§ 33.38 Limitations on placing rated orders.

(a) *General limitations.* (1) A person may not place a DO- or DX-rated order unless entitled to do so under this part.

(2) Rated orders may not be used to obtain:

(i) Delivery or performance on a date earlier than needed;

(ii) A greater quantity of the item or services than needed, except to obtain a minimum procurable quantity. Separate rated orders may not be placed solely for the purpose of obtaining minimum procurable quantities on each order;

(iii) Items or services in advance of the receipt of a rated order, except as specifically authorized by the Department of Transportation (*see* § 33.41(c) for information on obtaining authorization for a priority rating in advance of a rated order);

(iv) Items that are not needed to fill a rated order, except as specifically authorized by the Department of Transportation, or as otherwise permitted by this part;

(v) Any of the following items unless specific priority rating authority has been obtained from the Department of Transportation, a Delegate Agency, or the Department of Commerce, as appropriate:

(A) Items for plant improvement, expansion, or construction, unless they will be physically incorporated into a construction project covered by a rated order; and

(B) Production or construction equipment or items to be used for the manufacture of production equipment (For information on requesting priority rating authority, see § 33.41); or

(vi) Any items related to the development of chemical or biological warfare capabilities or the production of chemical or biological weapons, unless such development or production has been authorized by the President or the Secretary of Defense.

(b) *Jurisdictional limitations.* Unless authorized by the resource agency with jurisdiction, the provisions of this part are not applicable to the following resources:

(1) Food resources, food resource facilities, and the domestic distribution of farm equipment and commercial fertilizer (Resource agency with jurisdiction—Department of Agriculture);

(2) All forms of energy, including radioisotopes, stable isotopes, source material, and special nuclear material produced in Government-owned plants or facilities operated by or for the Department of Energy (Resource agency with jurisdiction—Department of Energy);

(3) Health resources (Resource agency with jurisdiction—Department of Health and Human Services);

(4) Water resources (Resource agency with jurisdiction—Department of Defense/U.S. Army Corps of Engineers); and

(5) Communications services (Resource agency with jurisdiction—National Communications System under Executive Order 12472 of April 3, 1984).

Subpart D—Special Priorities Assistance

§ 33.40 General provisions.

(a) TPAS is designed to be largely self-executing. However, from time-to-time production or delivery problems will arise. In this event, a person should immediately contact DOT's Defense Production Act Activities Coordinator, Office of Intelligence, Security, and Emergency Response, 1200 New Jersey Avenue, SE., Washington, DC 20590, for guidance or assistance. If the problem(s) cannot otherwise be resolved, special priorities assistance should be sought from the Department of Transportation through the Director, Office of Intelligence, Security, and Emergency Response, 1200 New Jersey Avenue, SE., Washington, DC 20590. If the Department of Transportation is unable to resolve the problem or to authorize the use of a priority rating and believes additional assistance is warranted, the Department of Transportation may forward the request to another resource agency, as appropriate, for action. Special priorities assistance is a service provided to alleviate problems that do arise.

(b) Special priorities assistance is available for any reason consistent with this part. Generally, special priorities assistance is provided to expedite deliveries, resolve delivery conflicts, place rated orders, locate suppliers, or to verify information supplied by customers and vendors. Special priorities assistance may also be used to request rating authority for items that are not normally eligible for priority treatment.

(c) A request for special priorities assistance or priority rating authority must be submitted on Form OST F 1254 (OMB control number to be inserted in the final rule) to the Defense Production Act Activities Coordinator, Office of Intelligence, Security, and Emergency Response, 1200 New Jersey Avenue, SE., Washington, DC 20590. Form OST F 1254 may be obtained from the Department of Transportation or a Delegate Agency. A sample Form OST F 1254 is attached at Appendix I.

§ 33.41 Requests for priority rating authority.

(a) If a rated order is likely to be delayed because a person is unable to obtain items or services not normally rated under this part, the person may request the authority to use a priority rating in ordering the needed items or services.

(b) Rating authority for production or construction equipment.

(1) A request for priority rating authority for production or construction equipment must be submitted to the U.S. Department of Commerce on FORM BIS–999.

(2) When the use of a priority rating is authorized for the procurement of production or construction equipment, a rated order may be used either to purchase or to lease such equipment. However, in the latter case, the equipment may be leased only from a person engaged in the business of leasing such equipment or from a person willing to lease rather than sell.

(c) Rating authority in advance of a rated prime contract.

(1) In certain cases and upon specific request, the Department of Transportation, in order to promote the national defense, may authorize a person to place a priority rating on an order to a supplier in advance of the issuance of a rated prime contract. In these instances, the person requesting advance rating authority must obtain sponsorship of the request from the Department of Transportation or the appropriate Delegate Agency. The person shall also assume any business risk associated with the placing of rated orders if these orders have to be cancelled in the event the rated prime contract is not issued.

(2) The person must state the following in the request:

It is understood that the authorization of a priority rating in advance of our receiving a rated prime contract from the Department of Transportation and our use of that priority rating with our suppliers in no way commits the Department of Transportation or any other government agency to enter into a contract or order or to expend funds. Further, we understand that the Federal Government shall not be liable for any cancellation charges, termination costs, or other damages that may accrue if a rated prime contract is not eventually placed and, as a result, we must subsequently cancel orders placed with the use of the priority rating authorized as a result of this request.

(3) In reviewing requests for rating authority in advance of a rated prime contract, the Department of Transportation will consider, among other things, the following criteria:

(i) The probability that the prime contract will be awarded;

(ii) The impact of the resulting rated orders on suppliers and on other authorized programs;

(iii) Whether the contractor is the sole source;

(iv) Whether the item being produced has a long lead time; and

(v) The time period for which the rating is being requested.

(4) The Department of Transportation may require periodic reports on the use of the rating authority granted under paragraph (c) of this section.

(5) If a rated prime contract is not issued, the person shall promptly notify all suppliers who have received rated orders pursuant to the advanced rating authority that the priority rating on those orders is cancelled.

§ 33.42 Examples of assistance.

(a) While special priorities assistance may be provided for any reason in support of this part, it is usually provided in situations where:

(1) A person is experiencing difficulty in obtaining delivery against a rated order by the required delivery date; or

(2) A person cannot locate a supplier for an item or service needed to fill a rated order.

(b) Other examples of special priorities assistance include:

(1) Ensuring that rated orders receive preferential treatment by suppliers;

(2) Resolving production or delivery conflicts between various rated orders;

(3) Assisting in placing rated orders with suppliers;

(4) Verifying the urgency of rated orders; and

(5) Determining the validity of rated orders.

§ 33.43 Criteria for assistance.

Requests for special priorities assistance should be timely, e.g., the request has been submitted promptly and enough time exists for the Department of Transportation or the Delegate Agency to effect a meaningful resolution to the problem, and must establish that:

(a) There is an urgent need for the item; and

(b) The applicant has made a reasonable effort to resolve the problem.

§ 33.44 Instances where assistance may not be provided.

Special priorities assistance is provided at the discretion of the Department of Transportation or the Delegate Agencies, when it is determined that such assistance is warranted to meet the objectives of this part. Examples where assistance may not be provided include situations when a person is attempting to:

(a) Secure a price advantage;

(b) Obtain delivery prior to the time required to fill a rated order;

(c) Gain competitive advantage;

(d) Disrupt an industry apportionment program in a manner designed to provide a person with an unwarranted share of scarce items; or

(e) Overcome a supplier's regularly established terms of sale or conditions of doing business.

§ 33.45 [Reserved]

Subpart E—Allocation Actions

§ 33.50 Policy.

(a) It is the policy of the Federal Government that the allocations authority under title I of the Defense Production Act may:

(1) Only be used when there is insufficient supply of a material, service, or facility to satisfy national defense supply requirements through the use of the priorities authority or when the use of the priorities authority would cause a severe and prolonged disruption in the supply of materials, services, or facilities available to support normal U.S. economic activities; and

(2) Not be used to ration materials or services at the retail level.

(b) Allocation orders, when used, will be distributed equitably among the suppliers of the materials, services, or facilities being allocated and not require any person to relinquish a disproportionate share of the civilian market.

§ 33.51 General procedures.

When the Department of Transportation plans to execute its allocations authority to address a supply problem within its resource jurisdiction, the Department shall develop a plan that includes the following information:

(a) A copy of the written determination made in accordance with section 202 of Executive Order 12919, that the program or programs that would be supported by the allocation action are necessary or appropriate to promote the national defense;

(b) A detailed description of the situation to include any unusual events or circumstances that have created the requirement for an allocation action;

(c) A statement of the specific objective(s) of the allocation action;

(d) A list of the materials, services, or facilities to be allocated;

(e) A list of the sources of the materials, services, or facilities that will be subject to the allocation action;

(f) A detailed description of the provisions that will be included in the allocation orders, including the type(s) of allocation orders, the percentages or quantity of capacity or output to be allocated for each purpose, and the duration of the allocation action (*e.g.,* anticipated start and end dates);

(g) An evaluation of the impact of the proposed allocation action on the civilian market; and

(h) Proposed actions, if any, to mitigate disruptions to civilian market operations.

§ 33.52 Controlling the general distribution of a material in the civilian market.

No allocation action by the Department of Transportation may be used to control the general distribution of a material in the civilian market, unless the Secretary of the Department of Transportation has:

(a) Made a written finding that:

(1) Such material is a scarce and critical material essential to the national defense, and

(2) The requirements of the national defense for such material cannot otherwise be met without creating a significant dislocation of the normal distribution of such material in the civilian market to such a degree as to create appreciable hardship;

(b) Submitted the finding for the President's approval through the Assistant to the President for National Security Affairs; and

(c) The President has approved the finding.

§ 33.53 Types of allocation orders.

There are three types of allocation orders available for communicating allocation actions. These are:

(a) Set-aside: An official action that requires a person to reserve materials, services, or facilities capacity in anticipation of the receipt of rated orders;

(b) Directive: An official action that requires a person to take or refrain from taking certain actions in accordance with its provisions. For example, a directive can require a person to: Stop or reduce production of an item; prohibit the use of selected materials, services, or facilities; or divert the use of materials, services, or facilities from one purpose to another; and

(c) Allotment: An official action that specifies the maximum quantity of a material, service, or facility authorized for a specific use.

§ 33.54 Elements of an allocation order.

Each allocation order must include:

(a) A detailed description of the required allocation action(s);

(b) Specific start and end calendar dates for each required allocation action;

(c) The written signature on a manually placed order, or the digital signature or name on an electronically placed order, of the Secretary. The signature or use of the name certifies that the order is authorized under this part and that the requirements of this part are being followed;

(d) A statement that reads in substance: "This is an allocation order certified for national defense use. [Insert the legal name of the person receiving the order] is required to comply with this order, in accordance with the provisions of the Transportation Priorities and Allocations System regulation (49 CFR part 33)"; and

(e) A current copy of the Transportation Priorities and Allocations System regulation (49 CFR part 33) as of the date of the allocation order.

§ 33.55 Mandatory acceptance of an allocation order.

(a) Except as otherwise specified in this section, a person shall accept and comply with every allocation order received.

(b) A person shall not discriminate against an allocation order in any manner such as by charging higher prices for materials, services, or facilities covered by the order or by imposing terms and conditions for contracts and orders involving allocated materials, services, or facilities that differ from the person's terms and conditions for contracts and orders for the materials, services, or facilities prior to receiving the allocation order.

(c) If a person is unable to comply fully with the required action(s) specified in an allocation order, the person must notify the Department of Transportation immediately, explain the extent to which compliance is possible, and give the reasons why full compliance is not possible. If notification is given verbally, written or electronic confirmation must be provided within five (5) calendar days. Such notification does not release the person from complying with the order to the fullest extent possible, until the person is notified by the Department of Transportation that the order has been changed or cancelled.

§ 33.56 Changes or cancellations of an allocation order.

An allocation order may be changed or canceled by an official action of the Department of Transportation.

Subpart F—Official Actions

§ 33.60 General provisions.

(a) The Department of Transportation may take specific official actions to implement the provisions of this part.

(b) These official actions include, but are not limited to, Rating Authorizations, Directives, Planning Orders, and Memoranda of Understanding.

§ 33.61 Rating authorizations.

(a) A Rating Authorization is an official action granting specific priority rating authority that:

(1) Permits a person to place a priority rating on an order for an item or service not normally ratable under this part; or

(2) Authorizes a person to modify a priority rating on a specific order or series of contracts or orders.

(b) To request priority rating authority, see § 33.41.

§ 33.62 Directives.

(a) A Directive is an official action that requires a person to take or refrain from taking certain actions in accordance with its provisions.

(b) A person must comply with each Directive issued. However, a person may not use or extend a Directive to obtain any items from a supplier, unless expressly authorized to do so in the Directive.

(c) A Priorities Directive takes precedence over all DX-rated orders, DO-rated orders, and unrated orders previously or subsequently received, unless a contrary instruction appears in the Directive.

(d) An Allocations Directive takes precedence over all Priorities Directives, DX-rated orders, DO-rated orders, and unrated orders previously or subsequently received, unless a contrary instruction appears in the Directive.

§ 33.63 Memoranda of Understanding.

(a) A Memorandum of Understanding is an official action that may be issued in resolving special priorities assistance cases to reflect an agreement reached by all parties (the Department of Transportation, the Department of Commerce (if applicable), a Delegate Agency (if applicable), the supplier, and the customer).

(b) A Memorandum of Understanding is not used to alter scheduling between rated orders, authorize the use of priority ratings, impose restrictions under this part, or take other official actions. Rather, Memoranda of Understanding are used to confirm production or shipping schedules that do not require modifications to other rated orders.

Subpart G—Compliance

§ 33.70 General provisions.

(a) The Department of Transportation may take specific official actions for any reason necessary or appropriate to the enforcement or the administration of the Defense Production Act and other applicable statutes or this part. Such actions include Administrative Subpoenas, Demands for Information, and Inspection Authorizations.

(b) Any person who places or receives a rated order or an allocation order must comply with the provisions of this part.

(c) Willful violation of the provisions of title I or Section 705 of the Defense Production Act and other applicable statutes, this part, or an official action of the Department of Transportation, is a criminal act, punishable as provided in the Defense Production Act and other applicable statutes, and as set forth in § 33.74 of this part.

§ 33.71 Audits and investigations.

(a) Audits and investigations are official actions involving the examination of books, records, documents, other writings and information to ensure that the provisions of the Defense Production Act and other applicable statutes, this part, and official actions have been properly followed. An audit or investigation may also include interviews and a systems evaluation to detect problems or failures in the implementation of this part.

(b) When undertaking an audit, investigation, or other inquiry, the Department of Transportation shall:

(1) Define the scope and purpose in the official action given to the person under investigation; and

(2) Have ascertained that the information sought or other adequate and authoritative data are not available from any Federal or other responsible agency.

(c) In administering this part, the Department of Transportation may issue the following documents that constitute official actions:

(1) Administrative Subpoenas. An Administrative Subpoena requires a person to appear as a witness before an official designated by the Department of Transportation to testify under oath on matters of which that person has knowledge relating to the enforcement or the administration of the Defense Production Act and other applicable statutes, this part, or official actions. An Administrative Subpoena may also require the production of books, papers, records, documents and physical objects or property.

(2) Demands for Information. A Demand for Information requires a person to furnish to a duly authorized representative of the Department of Transportation any information necessary or appropriate to the enforcement or the administration of the Defense Production Act and other applicable statutes, this part, or official actions.

(3) Inspection Authorizations. An Inspection Authorization requires a person to permit a duly authorized representative of the Department of Transportation to interview the person's employees or agents, to inspect books, records, documents, other writings, and information, including electronically-stored information, in the person's possession or control at the place where that person usually keeps them or otherwise, and to inspect a person's property when such interviews and inspections are necessary or appropriate to the enforcement or the administration of the Defense Production Act and related statutes, this part, or official actions.

(d) The production of books, records, documents, other writings, and information will not be required at any place other than where they are usually kept if, prior to the return date specified in the Administrative Subpoena or Demand for Information, a duly authorized official of the Department of Transportation is furnished with copies of such material that are certified under oath to be true copies. As an alternative, a person may enter into a stipulation with a duly authorized official of the Department of Transportation as to the content of the material.

(e) An Administrative Subpoena, Demand for Information, or Inspection Authorization, shall include the name, title, or official position of the person issuing the document and of the person to be served, the evidence sought to be adduced, and its general relevance to the scope and purpose of the audit, investigation, or other inquiry. If employees or agents are to be interviewed; if books, records, documents, other writings, or information are to be produced; or if property is to be inspected; the Administrative Subpoena, Demand for Information, or Inspection Authorization will describe them with particularity.

(f) Service of documents shall be made in the following manner:

(1) Service of a Demand for Information or Inspection Authorization shall be made personally, or by Certified Mail-Return Receipt Requested at the person's last known address. Service of an Administrative Subpoena shall be made personally. Personal service may also be made by leaving a copy of the document with someone at least 18 years old at the person's last known dwelling or place of business.

(2) Service upon other than an individual may be made by serving a partner, corporate officer, or a managing or general agent authorized by appointment or by law to accept service of process. If an agent is served, a copy of the document shall be mailed to the person named in the document.

(3) Any individual 18 years of age or over may serve an Administrative Subpoena, Demand for Information, or Inspection Authorization. When personal service is made, the individual making the service shall prepare an affidavit as to the manner in which service was made and the identity of the person served, and return the affidavit, and in the case of subpoenas, the original document, to the issuing officer. In case of failure to make service, the reasons for the failure shall be stated on the original document.

(g) This section is neither intended to limit the authority of the Inspector General of the Department of Transportation to initiate and conduct audits and investigations nor confer additional authority beyond that provided by the Inspector General Act.

§ 33.72 Compulsory process.

(a) If a person refuses to permit a duly authorized representative of the Department of Transportation to have access to any premises or source of information necessary to the administration or the enforcement of the Defense Production Act and other applicable statutes, or this part, the Department of Transportation representative may seek compulsory process. Compulsory process means the institution of appropriate legal action, including *ex parte* application for an inspection warrant or its equivalent, in any forum of appropriate jurisdiction.

(b) Compulsory process may be sought in advance of an audit, investigation, or other inquiry, if, in the judgment of DOT there is reason to believe that a person will refuse to permit an audit, investigation, or other inquiry, or that other circumstances exist which make such process desirable or necessary.

§ 33.73 Notification of failure to comply.

(a) At the conclusion of an audit, investigation, or other inquiry, or at any other time, the Department of Transportation may inform the person in writing where compliance with the requirements of the Defense Production Act and other applicable statutes, this part, or an official action were not met.

(b) In cases where the Department of Transportation determines that failure to comply with the provisions of the Defense Production Act and other applicable statutes, this part, or an official action was inadvertent, the person may be informed in writing of the particulars involved and the corrective action to be taken. Failure to take corrective action may then be construed as a willful violation of the Defense Production Act and other applicable statutes, this part, or an official action.

§ 33.74 Violations, penalties, and remedies.

(a) Willful violation of the provisions of title 1 or section 705 or 707 of the Defense Production Act, the priorities provisions of the Selective Service Act, this part, or an official action, is a crime and upon conviction, a person may be punished by fine or imprisonment, or both. The maximum penalty currently provided by the Defense Production Act is a $10,000 fine, or one year in prison, or both. The maximum penalty currently provided by the Selective Service Act is a $50,000 fine, or three years in prison, or both.

(b) The Government may also seek an injunction from a court of appropriate jurisdiction to prohibit the continuance of any violation of, or to enforce compliance with, the Defense Production Act, this part, or an official action.

(c) In order to secure the effective enforcement of the Defense Production Act and other applicable statutes, this part, and official actions, the following are prohibited:

(1) No person may solicit, influence or permit another person to perform any act prohibited by, or to omit any act required by, the Defense Production Act and other applicable statutes, this part, or an official action.

(2) No person may conspire or act in concert with any other person to perform any act prohibited by, or to omit any act required by, the Defense Production Act and other applicable statutes, this part, or an official action.

(3) No person shall deliver any item or perform any service if the person knows or has reason to believe that the item will be accepted, redelivered, held, or used in violation of the Defense Production Act and other applicable statutes, this part, or an official action. In such instances, the person must immediately notify the Department of Transportation that, in accordance with this provision, delivery of the item or performance of the service has not been made.

§ 33.75 Compliance conflicts.

If compliance with any provision of the Defense Production Act and other applicable statutes, this part, or an official action would prevent a person from filling a rated order or from complying with another provision of the Defense Production Act and other applicable statutes, this part, or an official action, the person must immediately notify the Department of Transportation for resolution of the conflict.

Subpart H—Adjustments, Exceptions, and Appeals

§ 33.80 Adjustments or exceptions.

(a) A person may submit a request to the Defense Production Act Activities Coordinator, Office of Intelligence Security, and Emergency Response, 1200 New Jersey Avenue, SE., Washington, DC 20590, for an adjustment or exception on the ground that:

(1) A provision of this part or an official action results in an undue or exceptional hardship on that person not suffered generally by others in similar situations and circumstances; or

(2) The consequences of following a provision of this part or an official action are contrary to the intent of the Defense Production Act and other applicable statutes, or this part.

(b) Each request for adjustment or exception must be in writing and contain a complete statement of all the facts and circumstances related to the provision of this part or official action from which adjustment or exception is sought and a full and precise statement of the reasons why relief should be provided.

(c) The submission of a request for adjustment or exception shall not relieve any person from the obligation of complying with the provision of this part or official action in question while the request is being considered unless such interim relief is granted in writing by the Office of Intelligence, Security, and Emergency Response.

(d) A decision of the Defense Production Act Activities Coordinator under this section may be appealed to the Assistant Secretary for Administration. (For information on the appeal procedure, see § 33.81.)

§ 33.81 Appeals.

(a) Any person who has had a request for adjustment or exception denied by the Defense Production Act Activities Coordinator under § 33.80, may appeal to the Department of Transportation's Assistant Secretary for Administration, who shall review and reconsider the denial.

(b)(1) Except as provided in paragraph (b)(2) if this section, an appeal must be received by the Assistant Secretary for Administration no later than 45 days after receipt of a written notice of denial from the Defense Production Act Activities Coordinator. After this 45-day period, an appeal may be accepted at the discretion of the Assistant Secretary for Administration for good cause shown.

(2) For requests for adjustment or exception involving rated orders placed for the purpose of emergency preparedness, an appeal must be received by the Assistant Secretary for Administration, no later than five (5) days after receipt of a written notice of denial from the Defense Production Act Activities Coordinator. Contract performance under the order shall not be stayed pending resolution of the appeal.

(c) Each appeal must be in writing and contain a complete statement of all the facts and circumstances related to the action appealed from, all necessary documents, and a full and precise statement of the reasons the decision should be modified or reversed.

(d) In addition to the written materials submitted in support of an appeal, an appellant may request, in writing, an opportunity for an informal hearing. This request may be granted or denied at the discretion of the Assistant Secretary for Administration.

(e) When a hearing is granted, the Assistant Secretary for Administration may designate an employee of the Office of the Senior Procurement Executive to conduct the hearing and to prepare a report. The hearing officer shall determine all procedural questions and impose such time or other limitations deemed reasonable. In the event that the hearing officer decides that a printed transcript is necessary, all expenses shall be borne by the appellant.

(f) When determining an appeal, the Assistant Secretary for Administration may consider all information submitted during the appeal as well as any recommendations, reports, or other relevant information and documents available to the Department of Transportation, or consult with any other persons or groups.

(g) The submission of an appeal under this section shall not relieve any person from the obligation of complying with the provision of this part or official action in question while the appeal is being considered unless such relief is granted in writing by the Assistant Secretary for Administration.

(h) The decision of the Assistant Secretary for Administration shall be made within five (5) working days after receipt of the appeal, or within one (1) working day for appeals pertaining to emergency preparedness and shall be the final administrative action. It shall be issued to the appellant in writing with a statement of the reasons for the decision.

Subpart I—Miscellaneous Provisions

§ 33.90 Protection against claims.

A person shall not be held liable for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with any provision of this part, or an official action, notwithstanding that such provision or action shall subsequently be declared invalid by judicial or other competent authority.

§ 33.91 Records and reports.

(a) Persons are required to make and preserve for at least three years, accurate and complete records of any transaction covered by this part or an official action.

(b) Records must be maintained in sufficient detail to permit the determination, upon examination, of whether each transaction complies with the provisions of this part or any official action. However, this part does not specify any particular method or system to be used.

(c) Records required to be maintained by this part must be made available for examination on demand by duly authorized representatives of the Department of Transportation as provided in § 33.71.

(d) In addition, persons must develop, maintain, and submit any other records and reports to the Department of Transportation that may be required for the administration of the Defense Production Act and other applicable statutes, and this part.

(e) Section 705(d) of the Defense Production Act, as implemented by Executive Order 12919, provides that information obtained under this section which the Secretary deems confidential, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall not be published or disclosed unless the Secretary determines that the withholding of this information is contrary to the interest of the national defense. Information required to be submitted to the Department of Transportation in connection with the enforcement or administration of the Defense Production Act, this part, or an official action, is deemed to be confidential under section 705(d) of the Defense Production Act and shall be handled in accordance with applicable Federal law.

§ 33.92 Applicability of this part and official actions.

(a) This part and all official actions, unless specifically stated otherwise, apply to transactions in any State, territory, or possession of the United States and the District of Columbia.

(b) This part and all official actions apply not only to deliveries to other persons but also include deliveries to affiliates and subsidiaries of a person and deliveries from one branch, division, or section of a single entity to another branch, division, or section under common ownership or control.

(c) This part and its schedules shall not be construed to affect any administrative actions taken by the Department of Transportation, or any outstanding contracts or orders placed pursuant to any of the parts, orders, schedules or delegations of authority previously issued by the Department of Transportation pursuant to authority granted by the President to the Department under in the Defense Production Act. Such actions, contracts, or orders shall continue in full force and effect under this part unless modified or terminated by proper authority.

§ 33.93 Communications.

All communications concerning this part, including requests for copies of the part and explanatory information, requests for guidance or clarification, and requests for adjustment or exception shall be addressed to the Defense Production Act Activities Coordinator, Office of Intelligence, Security and Emergency Response, 1200 New Jersey Avenue, SE., Washington, DC 20590.

BILLING CODE 4910–9X–P

Appendix I to Part 33 – Sample Form OST F 1254

U.S. DEPARTMENT OF TRANSPORTATION
REQUEST FOR SPECIAL PRIORITIES ASSISTANCE
READ INSTRUCTIONS FOLLOWING FORM

FOR DOT USE
OMB Control Number: 2105-XXXX
Expiration Date: mm/dd/yyyy

You must submit a completed application in order to request Special Priorities Assistance (SPA). See sections 33.40-33.44 of the Transportation Priorities and Allocations System (TPAS) regulation (49 CFR 33). It is a criminal offense under 18 U.S.C. 1001 to make a willfully false statement or representation to any U.S. Government agency as to any matter within its jurisdiction. All company information furnished related to this application will be deemed BUSINESS CONFIDENTIAL under Sec. 705(d) of the Defense Production Act of 1950 [50 U.S.C. App. 2155(d)] which prohibits publication or disclosure of this information unless the President determines that withholding it is contrary to the interest of the national defense. The Department of Transportation will assert the appropriate Freedom of Information Act (FOIA) exemptions if such information is the subject of FOIA requests. The unauthorized publication or disclosure of such information by Government personnel is prohibited by law. Violators are subject to fine and/or imprisonment.

The U.S. Department of Transportation reserves the right to request more detailed information from Applicant(s) on any responses given in the completed application for the purpose of making determinations for Special Priorities Assistance to Applicant(s).

PUBLIC BURDEN STATEMENT

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2105-XXXX. Public reporting for this collection of information is estimated to be approximately 30 minutes per response, including the time for reviewing instructions, gathering the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Defense Production Act Activities Coordinator, U.S. Department of Transportation, Office of Intelligence, Security and Emergency Response, W56-306, 1200 New Jersey Avenue, SE, Washington, DC 20590.

1. APPLICANT INFORMATION

a. Name and complete address of Applicant. Applicant can be any person needing assistance – a government agency, a private company, a contractor, or service supplier. See definition of "Applicant" in the Instructions for this form.

Applicant Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Contact's name: _____

Title: _____

Telephone: _____ Fax: _____

E-mail address: _____

b. If Applicant is not end-user, give name and complete address of the end-user.

Customer Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Contact's name: _____

Title: _____

Telephone: _____ Fax: _____

E-mail address: _____

Existing contract/purchase order #: _____

Dated: _____ Priority Rating: _____

2. APPLICANT SERVICE(S) OR ITEM(S). If Applicant is not end-user, describe service(s) or items(s) to be delivered by Applicant under its customer's contract or purchase order through the use of service(s) or items(s) listed in Section 3. If known, identify the Government program and service or end-item for which these service(s) or items(s) are required. If Applicant is end-user Government agency and Section 3 service(s) or item(s) are not end-items, identify the end-service or end-item for which the Section 3 service(s) or item(s) are required. See definition of "service" and "item" in the Footnotes section of the Instructions for this form.

U.S. DEPARTMENT OF TRANSPORTATION
REQUEST FOR SPECIAL PRIORITIES ASSISTANCE
READ INSTRUCTIONS FOLLOWING FORM

FOR DOT USE
OMB Control Number: 2105-XXXX
Expiration Date: mm/dd/yyyy

3. SERVICES OR ITEMS FOR WHICH APPLICANT REQUESTS ASSISTANCE

Name and Quantity	Description	Estimated Dollar Value

4. SUPPLIER OF ITEM OR SERVICE PROVIDER INFORMATION

a. Name and complete address of Applicant's Supplier/Provider.

Supplier/Provider Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Contact Name: _____

Title: _____

Telephone: _____ Fax: _____

E-mail address: _____

b. Applicant's contract or purchase order to Supplier/Provider.

Number: _____

Dated: _____

Priority rating:
(If none, so state)

5. BRIEF JUSTIFICATION STATEMENT OF NEED FOR SPECIAL ASSISTANCE.

Please provide a brief justification for this request for Special Priorities Assistance. The justification should begin with the reason you are seeking Special Priorities Assistance in support of the TPAS; e.g.: when its regular provisions are not sufficient to obtain delivery of service(s) or items(s) in time to meet urgent customer or program requirements; or help in locating a supplier or placing a rated order; to ensure that rated orders are receiving necessary preferential treatment by suppliers; to resolve production or delivery conflicts between or among rated orders; to verify the urgency or determine the validity of rated orders; or to request authority to use a priority rating. If Applicant(s) are requesting authority to use a priority rating, please explain the necessity of the requested items and/or services. As applicable, also explain the potential effects of delay in receipt of Section 3 items or services. Describe attempts to procure items/services in normal market conditions and give specific reasons why special priority assistance is required. If DX priority rating authority is requested, please explain the necessity over a DO priority rating.

OPI: Office of Intelligence, Security, and Emergency Response

U.S. DEPARTMENT OF TRANSPORTATION
REQUEST FOR SPECIAL PRIORITIES ASSISTANCE
READ INSTRUCTIONS FOLLOWING FORM

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OMB Control Number: 2105-XXXX
Expiration Date: mm/dd/yyyy

6. CERTIFICATION: I certify that the information contained in Sections 1 – 5 of this form, and all other information attached, is correct and complete to the best of my knowledge and belief (omit signature if this form is electronically generated and transmitted - use of name is deemed certification).

Signature of Applicant's authorized official

Title

Print or type Name of Applicant's authorized official

Date

CONTINUATION SECTION
Identify each statement with appropriate Section number

Instructions for Using OMB Form 2105-XXXX

REQUEST FOR SPECIAL PRIORITIES ASSISTANCE

WHO DO I CONTACT FOR FURTHER INFORMATION?

Email: S60.Policy@dot.gov

Mail: Defense Production Act Activities Coordinator, U.S. Department of Transportation, Office of Intelligence, Security and Emergency Response, W56-306, 1200 New Jersey Avenue, SE, Washington, DC 20590

Phone: 202-366-1863

Fax: 202-366-4902

HOW DO I SUBMIT THIS FORM?

Email. Please fill out form electronically using Adobe Acrobat Reader and send by email, if possible. Otherwise, print and scan your signed evaluation to a pdf document and email to S60.Policy@dot.gov.

Fax. Fax your signed evaluation to (202) 366-4902.You will receive an email confirmation.

DOT may contact you for additional clarifying information, and will respond to you in a timely manner with a decision regarding your request.

WHEN SHOULD THIS FORM BE USED?

Requests for Special Priorities Assistance (SPA) may be filed with the U.S. Department of Transportation (DOT) for any reason in support of the Transportation Priorities and Allocations System (TPAS); e.g.: when its regular provisions are not sufficient to obtain delivery of service(s) or items(s) in time to meet urgent customer or program requirements; or help in locating a supplier or placing a rated order; to ensure that rated orders are receiving necessary preferential treatment by suppliers; to resolve production or delivery conflicts between or among rated orders; to verify the urgency or determine the validity of rated orders; or to request authority to use a priority rating.

Requests for SPA must be sponsored by the U.S. Government agency responsible for the program or project supported by the Applicant's contract or purchase order.

Generally, one form should be completed for each contract or purchase order number. However, if SPA is requested for multiple contracts or purchase orders placed with a supplier for the same or similar services or items, information from all contracts or purchase orders may be included in one application. However, each contract or purchase order number must be identified and shown separately.

WHO SHOULD COMPLETE THE FORM?

Private sector applicants should file with their respective customers as follows: **lower-tier suppliers** file with customer/subcontractor for forwarding to subcontractor/prime contractor; **subcontractors/suppliers** file with prime contractor for forwarding to DOT or the sponsoring U.S. Government Agency, as applicable; **prime contractors** file directly with DOT or the sponsoring U.S. Government Agency, as applicable. If for any reason the applicant is unable to file this form as specified above, see section below on "Who do I contact for further information?"

DEFINITIONS:

Applicant as used in this form refers to any person requiring Special Priorities Assistance, and eligible for such assistance under TPAS.

Item is defined in TPAS as any raw, in process, or manufactured material, article, commodity, supply, equipment, component, accessory, part, assembly, or product of any kind, technical information, process, or service.

Person is defined in TPAS to include any individual, corporation, partnership, association, any other organized group of persons, a U.S. Government agency, or any other government.

Service is defined in TPAS to include any effort that is needed for or incidental to (1) the development, production, processing, distribution, deliver, or use of an industrial resource or a critical technology item; (2) the construction of facilities; (3) the movement of individuals and property by all modes of civil transportation; or (4) other national defense programs and activities

SPECIFIC INSTRUCTIONS

Section 1:

a. Information about the applicant should go here. An "applicant" refers to any person requiring Special priorities Assistance and eligible for such assistance under the TPAS. A "person" in this context is any individual, corporation, partnership, association, or other organized group of persons, a US Government agency or any other government.
b. Information about the end-user or ultimate customer for the item or service goes here.

Section 2:

Recognizing that many requests for special priorities may involve interim services or items, please complete this section describing the "end product" that will be improved through providing the priority listed. An example would be providing freight rail transportation for a subcomponent of a major item that is direly needed for the national defense by the Government. Explain how the transportation of the subcomponent will fulfill the Government's need.

Section 3:

Here you provide information on the item or service you provide and seek special priority assistance with. What is it called, how many or how much, what is the description and also the estimated dollar value of the item/service itself. This helps DOT understand the scope of your request.

Section 4:

This section helps DOT understand who your supplier or service provider is. These are the people who need to move faster to accomplish your priority objective.

Section 5:

Please provide enough information so DOT understands the need for and urgency of your request.

Section 6:

This section certifies that the information is correct, to the best knowledge of the person whose name and/or signature is shown (depending on format of form used). It is a criminal offense under 18 U.S.C. 1011 to make a willfully false statement or representation to any U.S. Government agency as to any matter within its jurisdiction.

Continuation Section

Understanding that situations requiring requests for special priorities assistance may be complex and information required not easily confined to sections on a form, you are provided this opportunity to provide any additional information that will assist DOT in making a determination on your request.

SPECIAL INSTRUCTIONS:

- If the space in any block is insufficient to provide a clear and complete statement of the information requested, use a separate sheet to be attached to this form.
- If disclosure of certain information on this form is prohibited by security regulations or other security considerations, enter "classified" or "confidential" in the appropriate block in lieu of the restricted information.
- The U.S. Department of Transportation

reserves the right to request more detailed information from Applicant(s) on any responses given in the completed application for the purpose of making determinations for Special Priorities Assistance to Applicant(s).

PRIVACY ACT STATEMENT

This notice is provided pursuant to the Privacy Act, 5, U.S.C. 552a(e)(3): The Information on this application is solicited under the authority of Title 50 U.S.C. App. § 2061 et seq., the Defense Production Act of 1950. The principal purpose for which the information is to be used is to determine your eligibility for Special Priorities Assistance under the Transportation Priorities and Allocations System program. Contact information will be used to notify you if Special Priorities Assistance has been granted, and to provide any other notifications required by the program. Other possible uses of information are published in the Federal Register at 75 FR 82133 (December 29, 2010) under "Prefatory Statement of General Routine Uses". Furnishing the information on this form is voluntary, but failure to provide all or part of the information may delay or prevent the processing of your application.

Appendix II to Part 33—Schedule 1 Approved Programs

The programs listed in this schedule have been approved for priorities and allocations support under this part by the Administrator of FEMA. They have equal preferential status.

Approved Program

Program Identification Symbol

[FR Doc. 2011–3209 Filed 2–14–11; 8:45 am]

BILLING CODE 4910–9X–C

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 229 and 238

[Docket Nos. FRA–2009–0094 and FRA–2009–0095, Notice No. 2]

RIN 2130–AC16

Locomotive Safety Standards; Correction

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Proposed rule; correction.

SUMMARY: FRA is notifying the public that the correct docket number for the Locomotive Safety Standards notice of proposed rulemaking (NPRM) is FRA–2009–0094. The NPRM issued on January 12, 2011, incorrectly identified docket number FRA–2009–0095 as the public docket for this rulemaking proceeding. FRA is requesting that all comments related to this proceeding be submitted to FRA–2009–0094.

DATES: The comment date for the proposed rule published January 12, 2011, at 76 FR 2200, remains March 14, 2011.

FOR FURTHER INFORMATION CONTACT: Michael Masci, Trial Attorney, Office of Chief Counsel, FRA, 1200 New Jersey Avenue, SE., Washington, DC (telephone 202–493–6037).

ADDRESSES: Comments: Comments related to Docket No. FRA–2009–0094, may be submitted by any of the following methods: Web Site: Federal eRulemaking Portal, *http://www.regulations.gov.* Follow the online instructions for submitting comments.

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

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. Note that all comments received will be posted without change to *http://www.regulation.gov* including any personal information. FRA wishes to inform all potential commenters that anyone is able to search the electronic form of all comments received into any agency docket by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or to Room W12–140 on the Ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC between 9 a.m. and 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: On January 12, 2011, FRA published an NPRM related to locomotive safety standards. *See* 76 FR 2200. The NPRM established a public docket to receive comments in response to FRA's proposal related to locomotive safety standards. That *NPRM* mistakenly lists FRA–2009–0095 ("incorrect docket") as the docket number for the NPRM. The correct docket number for this proceeding is FRA–2009–94 ("correct docket"). FRA requests that comments to the NPRM be submitted to the correct docket.

Comments submitted to the incorrect docket will be fully considered as part of the locomotive safety standards rulemaking. Because the incorrect docket is listed in the January 12, 2011, **Federal Register** document issuing the NPRM, comments submitted to the incorrect docket will remain valid. FRA will transfer all comments and information that are received in the incorrect docket to the correct docket. As such, interested parties that wish to read comments to the NPRM should access docket FRA–2009–0094 to locate the comments.

Issued in Washington, DC, on February 9, 2011.

Robert Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2011–3260 Filed 2–14–11; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1201

[Docket No. EP 706]

Reporting Requirements for Positive Train Control Expenses and Investments

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of intent to institute a rulemaking proceeding.

SUMMARY: In a decision served on February 10, 2011, the Board granted a petition by the Union Pacific Railroad Company (UP) to institute a rulemaking proceeding to explore whether the Board should require Class I railroads to report separately how much each railroad is spending on the development, installation, and maintenance of Positive Train Control, a federally mandated safety system that will automatically stop or slow a train before an accident can occur. Several parties filed comments in reply to UP's petition. The Board will address the arguments and issues raised in those filings in a subsequent decision. The Board's decision makes no determination on the merits of UP's specific proposal.

DATES: The Board's decision became effective on February 10, 2011. The Board will establish further procedures for public comment in a subsequent decision.

FOR FURTHER INFORMATION CONTACT: Valerie Quinn, (202) 245–0382. Federal Information Relay Service (FIRS) for the hearing impaired, (800) 877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's February 10, 2011, decision, which is available on our Web site at *http://www.stb.dot.gov.* Copies of the decision may be purchased by contacting the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0236. Assistance for the hearing impaired is available through FIRS at (800) 877–8339.

This action will not significantly affect either the quality of the human

environment or the conservation of energy resources.

Decided: February 10, 2011.

By the Board, Chairman Elliott, Vice Chairman Nottinham, and Commissioner Mulvey.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–3396 Filed 2–14–11; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 680

[Docket No. 100723308–1086–01]

RIN 0648–BA11

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Crab Rationalization Program

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 37 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP). If approved, these regulations would amend the Bering Sea/Aleutian Islands Crab Rationalization Program by establishing a process for eligible contract signatories to request that NMFS exempt holders of West-designated individual fishing quota (IFQ) and individual processor quota (IPQ) in the Western Aleutian Islands golden king crab fishery from the West regional delivery requirements. Federal regulations require West-designated golden king crab IFQ to be delivered to a processor in the West region of the Aleutian Islands with an exact amount of unused West-designated IPQ. However, processing capacity may not be available each season. Amendment 37 is necessary to prevent disruption to the Western Aleutian Islands golden king crab fishery, while providing for the sustained participation of municipalities in the region. This proposed action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable law.

DATES: Comments must be received no later than April 1, 2011.

ADDRESSES: You may submit comments, identified by "RIN 0648–BA11", by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov.*
- *Fax:* (907) 586–7557, Attn: Ellen Sebastian.
- *Mail:* P.O. Box 21668, Juneau, AK 99802.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

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

Electronic copies of Amendment 37 to the FMP, the Regulatory Impact Review (RIR), the Initial Regulatory Flexibility Analysis (IRFA), and the Categorical Exclusion prepared for this proposed action may be obtained from *http://www.regulations.gov* or from the Alaska Region Web site at *http://alaskafisheries.noaa.gov.* The Environmental Impact Statement, RIR, Final Regulatory Flexibility Analysis, and Social Impact Assessment prepared for the Crab Rationalization Program are available from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS at the above address, e-mailed to *OIRA_Submission@omb.eop.gov,* or faxed to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Seanbob Kelly, 907–586–7228.

SUPPLEMENTARY INFORMATION: The king and Tanner crab fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands (BSAI) are managed under the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.,* as amended by the Consolidated Appropriations Act of 2004 (Pub. L. 108–199, section 801). Amendments 18 and 19 to the FMP implemented the BSAI Crab Rationalization Program (Program) in a final rule published on March 2, 2005 (70 FR 10174). Regulations implementing the FMP and all amendments to the Program are at 50 CFR part 680, and general regulations related to fishery management are at 50 CFR part 600.

Background

In 2005, NMFS established the Program as a catch share program for nine crab fisheries in the BSAI. The Individual Fishing Quota (IFQ) portion of the Program assigned quota share (QS) to persons based on their historic participation in one or more of these nine BSAI crab fisheries during a specific time period. Under the Program, NMFS issued four types of QS: catcher vessel owner (CVO) QS was assigned to holders of License Limitation Program (LLP) licenses who delivered their catch onshore or to stationary floating crab processors; catcher/processor vessel owner (CPO) QS was assigned to LLP holders that harvested and processed their catch at sea; captains and crew onboard catcher/processor vessels were issued catcher/processor crew (CPC) QS; and captains and crew onboard catcher vessels were issued catcher vessel crew (CVC) QS. Each year, a person who holds QS may receive IFQ, which is an exclusive harvest privilege for a portion of the annual total allowable catch (TAC). Under the program, QS holders can form cooperatives to pool the harvest of the IFQ on fewer vessels to minimize operational costs.

NMFS also issued processor quota share (PQS) under the Program. Each year, PQS yields an exclusive privilege to receive (for processing) a portion of the IFQ in each of the nine BSAI crab fisheries. This annual exclusive processing privilege is called IPQ. A portion of the QS issued yields IFQ that is required to be delivered to a processor with a like amount of unused IPQ. IFQ derived from CVO QS is subject to annual designation as either Class A IFQ or Class B IFQ. Ninety percent of the IFQ derived from CVO QS for a fishery is designated as Class A IFQ, and the remaining 10 percent of the IFQ is designated as Class B IFQ. Class A IFQ must be matched and delivered to a processor with IPQ. Each year there is a one-to-one match of the total pounds of Class A IFQ with the total pounds of IPQ issued in each crab fishery and region. Class B IFQ is not required to be delivered to a processor with IPQ.

In most crab fisheries, the Program established regional designations for QS and PQS to ensure that municipalities

that were historically active as processing ports continue to receive socioeconomic benefits from crab deliveries or to encourage the development of processing capacity in specific isolated municipalities. To accomplish this, the Program imposes regional delivery requirements to specific geographic regions based on historic geographic delivery and processing patterns. Regulations implementing the Program establish regional delivery requirements at 50 CFR 680.40(b)(2) and (d)(2).

Western Aleutian Islands Golden King Crab Fishery

The Western Aleutian Islands golden king crab (*Lithodes aequispinus*) (WAG) fishery is subject to regional delivery requirements. For the WAG fishery, 50 percent of the Class A IFQ and a corresponding amount of IPQ are designated for delivery and processing in the West region (west of 174° W. long.). The remaining 50 percent of the Class A IFQ and IPQ, the Class B CVC IFQ, CPO IFQ, and CPC IFQ are not subject to regional delivery requirements. These regional delivery requirements are intended to promote the development of fisheries infrastructure in the cities of Adak and Atka, two isolated municipalities located in the West region. Historically, the City of Adak has been the primary port for deliveries of WAG and the allocation of a portion of the TAC to the City of Adak recognized that historic participation in the fishery. The West regional delivery requirements for the WAG fishery are at 50 CFR 680.40(c)(4) and (e)(2).

WAG harvested with West-designated Class A IFQ must be delivered to a processor located in the West region with West-designated IPQ. The only shore-based processing facility capable of processing WAG in this region has been located in the community of Adak. In recent years, the City of Atka has begun to develop processing capacity; however, the City of Atka currently lacks the capacity to process WAG crab. Therefore, QS and PQS holders have been dependent on the Adak facility for the processing of West-designated WAG. Additionally, the Adak facility, the sole shore-based processing facility in the region, closed in April of 2009 and has not yet reopened. The Adak facility's owners officially filed for Chapter 11 bankruptcy in September 2009, and the proceedings have yet to be resolved. The closure of the Adak facility prevents catcher vessels from delivering WAG harvested with West-designated IFQ in that region. Similarly, holders of IPQ with a West regional designation lack an economically viable facility at which to receive deliveries or to process WAG.

In October 2009, fishery participants petitioned the Council for approval of an emergency rule to suspend the regional designation for the 2009/2010 WAG fishing season. At the December 2009 meeting, the Council recommended emergency action due in part to public testimony that alternative processing capacity in the West region was not economically feasible in the short term. Specifically, processor representatives testified that operating a floating processor in the West region for this season would not be profitable, due to the short length of the golden king crab fishery, the low TAC, the expected price per pound for golden king crab, and the costs associated with operating in that remote location.

On February 18, 2010, NMFS published an emergency action to exempt West-designated IFQ and West-designated IPQ for the WAG fishery from the West regional designation until August 17, 2010 (75 FR 7205). Removing the West regional designation from this IFQ and IPQ temporarily relaxed the requirements that these shares be used in the West region. NMFS extended the emergency action on August 17, 2010 (75 FR 50716), and the exemption is in effect through February 20, 2011.

Objectives and Rationale for the Proposed Action

At its April 2010 meeting, the Council adopted Amendment 37 to the FMP. If approved, Amendment 37 would address the lack of processing capacity in the West region by establishing a process for eligible contract signatories, to request that NMFS exempt the WAG fishery from the West regional delivery requirements. The Council and NMFS recognize that the regional delivery requirements would be untenable if processing capacity is not available in the region, potentially resulting in unutilized TAC. Amendment 37 would establish a means to enhance stability in the fishery, while continuing to promote the sustained participation of the municipalities intended to benefit from the West regional delivery requirements.

Description of the Proposed Action

Amendment 37 would establish regulations for eligible contract signatories in the WAG fishery to apply for an exemption to the West regional delivery requirements that would apply to all West-designated IFQ and IPQ holders. Under this proposed action, eligible contract signatories could contractually agree to complete an application to NMFS requesting an exemption from the West regional delivery requirements. Eligible participants could submit an application to NMFS at anytime during the crab fishing year. Upon approval of a completed application, NMFS would exempt all West-designated Class A IFQ and IPQ from the West regional delivery requirements for the remainder of the crab fishing year. Such an exemption would enable all West-designated Class A IFQ and IPQ holders to deliver and receive WAG crab at processing facilities outside of the West region, thereby promoting the full utilization of the TAC when processing capacity is not available in the West region.

This action differs from the emergency rules in that it would not remove the regional designation established under 50 CFR 680.40(c)(4) and (e)(2). Instead, NMFS is proposing to preserve the regional delivery requirements in order to promote the reestablishment of processing capacity in the West region. Under this proposed action, NMFS would continue to annually issue WAG Class A IFQ and IPQ with a West regional delivery requirement but would exempt West-designated IFQ holders and IPQ holders from the West regional delivery requirements if the required parties apply for and are granted an exemption. By removing the delivery requirements only if eligible contract signatories, who would be comprised of QS holders, PQS holders, and the cities of Adak and Atka, agree to apply for an exemption, this action maintains the West regional delivery requirements in all years.

In some years, it may not be possible for fishery participants to predict the availability of West region processing capacity. Therefore, this proposed action provides the flexibility necessary for eligible contract signatories to request an exemption at any point during a crab fishing year. In order to fully utilize the TAC in a given year, it may be necessary for fishery participants to respond quickly to unforeseen disruptions in processing capacity. From the date an exemption is approved by NMFS, all West-designated WAG IFQ could be delivered east of 174° W. long. until the end of that crab fishing year.

Eligible Contract Signatories

Amendment 37 would establish regulations that identify the eligible contract signatories as those QS holders, PQS holders, and municipalities who would be eligible to apply for an exemption from the West regional delivery requirements. The Council's recommendation required the inclusion of QS and PQS holders that are

substantially invested in the fishery and the municipalities intended to benefit from the regional delivery requirements. In selecting the eligible contract signatories, the Council sought to limit the necessary contract parties to participants that best meet the intent of this proposed action and participants able to respond relatively quickly to a lack of in-region processing capacity.

The Council selected application requirements that are necessary for the eligible contract signatories to request an exemption: (1) Any person or company that holds in excess of 20-percent of the West-designated WAG QS; (2) any person or company that holds in excess of 20-percent of the West-designated WAG PQS; and (3) the cities of Adak and Atka. Currently, participants in the WAG fishery that hold QS or PQS are able to verify their portion relative to other QS or PQS holders by accessing the Alaska Region Web site at *http://alaskafisheries.noaa.gov* . For the purposes of this action, NMFS proposes to post the QS and PQS holdings on its website following the end of the transfer application period (August 1) and prior to the start of the WAG fishery (August 15). Participants holding 20-percent or less of either share type would have no direct input into the contract negotiations or applications; however, once granted, an exemption would apply to all West-designated IFQ and IPQ holders. Once granted, the exemption does not obligate an IFQ or IPQ holder who is not a contract signatory to deliver outside of the West region, but does provide that flexibility.

As described in the Classification section of this preamble, the Council considered several thresholds of QS and PQS ownership when considering eligibility criteria. The Council recommended a greater than 20-percent minimum participation threshold for eligibility because the inclusion of share holders with less economic incentive to harvest or process West-designated WAG could impede effective negotiations. Participants with less than or equal to 20-percent ownership could withhold participation in an exemption to extract more favorable terms from larger entities with greater economic incentive to fully harvest and process the IFQ and IPQ. IFQ and IPQ holders that are substantially invested in the fishery are more likely to act quickly to ensure that TAC is fully utilized. By establishing the greater than 20-percent threshold, this proposed action is intended to provide a balance between efficiency and the participation of QS and PQS holders. Additionally, these eligibility criteria are intended to balance the interests of WAG fishery QS and PQS holders with the municipalities intended to benefit from the West regional delivery requirements.

The Council selected the 20-percent threshold for CVO QS holders in recognition that consolidation in the fleet has led to fewer vessels actively fishing. As the RIR (*see* **ADDRESSES**) for this proposed action shows, during the 2009/2010 crab fishing year there were eight QS holders that were eligible to receive West-designated IFQ in the WAG fishery; however, only two QS holders were both subject to the regional delivery requirements and met the greater-than-20-percent threshold proposed by this action. The combined holdings of the remaining six CVO QS holders represent only 29 percent of the total West designated IFQ in the WAG fishery. These CVO QS holders have consolidated their IFQ under the cooperative provisions implemented under the Program, at 50 CFR 680.21, and are not actively participating in the fishery.

Similar consolidation has occurred with PQS holders resulting in three of the seven PQS holders controlling 95 percent of the West designated PQS, during the 2009/2010 crab fishing year. Of these, only two PQS holders would have met the 20-percent threshold for West-designated WAG PQS specified in the action. The remaining four CVO PQS holders represent only 12 percent of the total West-designated IFQ in the WAG fishery. Notably, the owner of the Adak processing facility holds nearly 11 percent of the remaining West-designated PQS. The owner of the Adak facility and other minor holders of West-designated PQS would not qualify under the 20-percent eligibility threshold recommended by the Council and proposed under this action. The Council realized the proposed threshold would exclude the Adak facility operator; however, the uncertain status of the PQS held by the Adak facility prevented the Council from designating the Adak facility as a necessary contract signatory under this proposed action.

Similarly, the Council considered, but declined to include, shore-based processors as necessary signatories to an application to request an exemption from the regional delivery requirements. Other processing facilities in the region have not substantially participated in this fishery and were not considered to be substantially invested in the WAG fishery. The Council noted that the interests of the shore-based processing activities and associated revenue for the cities of Adak and Atka should instead be protected by the inclusion of the cities of Adak and Atka as required signatories. As the intended beneficiaries of the West regional delivery requirements, the proposed action would require the approval of both the City of Adak and the City of Atka to exempt IFQ and IPQ holders from the West regional delivery requirements. This approach is also consistent with the overall goal of the Program to provide stability for municipalities in the West region, not specific processing facilities, through the regional delivery requirement.

This proposed action ensures that the municipalities intended to benefit from the regional delivery requirements participate in any agreement to deliver West-designated WAG east of 174° W. long. If approved, NMFS would require the unanimous consent of all eligible contract signatories, to ensure that the interest of the cities of Adak and Atka are protected. The Council determined that the inclusion of the cities of Adak and Atka as required signatories would continue to promote the development of consistent processing capacity in the West region because these municipalities would likely withhold consent to an exemption to foster local deliveries. In particular, the City of Adak is likely to protect the regional designation because the sole, albeit nonfunctioning, crab processing facility is located in the City of Adak, and the city benefits by receiving and processing WAG. A municipality that typically benefits from taxes levied on the processor for deliveries in the WAG fishery receives little or no revenue when the shore-based processing capacity is unreliable or nonexistent. Presumably, contract negotiations would be facilitated if QS holders and PQS holders provide some economic benefits to the municipalities in return for each community's agreement to an exemption from the delivery requirements. For example, reimbursement of these lost revenues may provide adequate incentive for a community to consent to allow deliveries to occur east of 174° W. long. Alternatively, a community withholding consent to an exemption could attract the development of additional shore-based processing infrastructure to the region. In the short term, the municipalities are likely to agree to an exemption from the delivery requirements; however, annual unanimous consent for an exemption ensures that the long-term interests of these municipalities are considered in any negotiations with the eligible QS and PQS holders.

Although IFQ and IPQ holders are also likely to support an exemption from the West regional delivery

requirements in the short term, the Council concluded that the costs associated with delivering WAG outside of the West region are likely to promote the development of processing capacity inside the West region. Harvesters and processors pursuing processing capacity outside of the region are likely to incur higher costs associated with the increased transit time and fuel cost required to deliver outside of this remote location. IFQ and IPQ holders noted the operational efficiencies if there is reliable processing capacity in the West region.

Approval of Exemption

NMFS recognizes the importance of the West regional delivery requirements and would require the unanimous agreement of all eligible contract signatories on an annual basis to exempt the WAG Class A IFQ from the West regional delivery requirements. To be approved, all parties meeting the eligibility requirements at the time the application is submitted must signify their agreement of the exemption on the application. NMFS would grant an exemption to the regional delivery requirements, if all eligible contract signatories submit a completed application form, including an affidavit affirming that a master contract has been signed by all eligible contract signatories.

Proposed Changes to the Program

This proposed rule would modify or add regulations at 50 CFR 680.4, 680.7(a)(2), and 680.7(a)(4). These proposed changes would apply as described in the following sections of this preamble.

Application

The proposed rule would add regulations at 50 CFR 680.4(o) to establish the process for eligible participants to request an exemption for all West-designated IFQ and IPQ from regulations requiring that WAG be processed west of 174° W. long. The proposed regulations require all eligible contract signatories to submit a completed application before NMFS would approve an exemption for all IFQ and IPQ holders from the West regional delivery requirements in the WAG fishery. For NMFS to consider an application for approval, all eligible signatories, or their authorized representatives, must sign and date an affidavit affirming that all information provided on the application is true, correct, and complete to the best of his or her knowledge and belief.

Due to the complexities associated with responding quickly to unforeseen disruption of processing capacity and the remote nature of the fishery, it may be necessary for authorized representatives to sign for the person, company, or municipality designated in proposed regulations as an eligible contract signatory at 50 CFR 680.4(o)(2)(i). For the cities of Adak and Atka, it is assumed that the Mayor or City Clerk would sign on behalf of the City; however, another authorized representative of the City could sign on behalf of the City as long as documentation of that authority is demonstrated on the application. All authorized representatives must clearly identify the eligible contract signatories on whose behalf they are signing the application, and attach documentation supporting that authority.

The applicants must provide information describing how eligible contract signatories meet the requirements and that all eligible signatories are included on the application. Eligible contract signatories must provide their name and NMFS person ID, or document the identity and authority of an authorized representative. Additional documents supporting eligibility under the proposed regulations at 50 CFR 680.4(o)(2)(i) may be attached to an application to facilitate approval.

Approval of Application

If NMFS receives a completed application submitted under one of the approved methods described in the proposed regulations at 50 CFR 680.4(o), then NMFS will process that application as soon as possible. Once received by NMFS, the approval process would include verification that:

- Each eligible contract signatory affirms that a master contract, authorizing the completion of the application to request that NMFS grant an exemption to West-designated IFQ and West-designated IPQ holders in the Western Aleutian Golden king crab fishery from the West regional delivery requirements, has been completed;
- Each eligible contract signatory has signed the application to NMFS requesting an exemption from the West regional delivery requirements proposed at 50 CFR 680.4(o)(2)(i); and,
- Each eligible contract signatory has signed an affidavit affirming that (1) a master contract has been signed and (2) all applicable information provided in the application is true, correct, and complete to the best of his or her knowledge and belief.

Based on experience with similar actions, NMFS would likely complete the review of an application within 10 calendar days. Contract signatories should consider the potential time lag between submission of a completed application and the effective date of NMFS approval in master contract negotiations. NMFS approval of an annual exemption from the Western Aleutian Islands golden king crab West regional delivery requirements will be made publicly available at the NMFS Web site at *http://alaskafisheries.noaa.gov.*

The evaluation of an application for an annual exemption would require a decision-making process that would be subject to administrative appeal. Applications not meeting the requirements will not be approved, and NMFS would issue an initial administrative determination (IAD) to indicate the deficiencies and discrepancies in the information (or the evidence submitted in support of the application) and provide information on how an applicant could appeal an IAD. The appeals process is described under 50 CFR 679.43. However, if an application is denied, eligible contract signatories could reapply at any time during a crab fishing year. This program is designed to be flexible and includes no deadlines for submission or limits on the number of times applications could be submitted to NMFS.

Duration of Exemption

To expedite an exemption from the delivery requirements, the proposed regulations at 50 CFR 680.4(o)(3) would establish the effective date of the exemption as the date the completed application was approved by NMFS. To avoid potential uncertainty about whether an application was received, the proposed regulations would require an application to retain objective written evidence that the NMFS Alaska Region received an application. For example, if the application is sent via U.S. Postal Service, the applicants would need to retain the delivery confirmation receipt, or other appropriate documentation issued by the U.S. Postal Service.

This proposed rule would also establish the duration of an exemption. Consistent with the Council's intent to retain the West regional delivery requirements unless NMFS annually approves an application for an exemption, exemptions would commence on the effective date and expire at the end of that crab fishing year (June 30). Therefore, an exemption must be agreed upon by all eligible contract signatories annually. IPQ or IFQ processed outside of the West region prior to the effective date would not be exempt from the West regional delivery requirements. Proposed

regulations at 50 CFR 680.4(o)(3) and (o)(4), and prohibitions at 50 CFR 680.7(a)(2) and (a)(4), would provide for a contractually defined exemption while retaining the regional delivery requirements, at 50 CFR 680.40(c)(4) and 50 CFR 680.40(e)(2), as the default for the WAG fishery.

Classification

Pursuant to sections 304(b) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration of comments received during the public comment period.

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

Initial Regulatory Flexibility Analysis

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the proposed action, why it is being considered, and the legal basis for this proposed action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble and are not repeated here. A summary of the IRFA follows. A copy of the IRFA is available from NMFS (*see* **ADDRESSES**).

Number and Description of Small Entities Regulated by the Proposed Action

The preferred alternative directly regulates certain QS holders, IFQ holders, PQS holders, IPQ holders, the cities of Adak and Atka, and possibly certain shore-based processors in those two municipalities. The fishery has 15 QS holders, of which 14 are estimated to be small entities. One of these entities is a community development quota (CDQ) group; one is a wholly owned subsidiary of a CDQ group; and the others do not exceed the $4.0 million threshold.

In the 2009/2010 season, the fishery had three holders of West region QS, two of which are estimated to be small entities. One of these is a wholly owned subsidiary of a CDQ group, and the other is estimated to have annual receipts below the $4.0 million threshold. The fishery had seven holders of West region PQS, of which four are estimated to be small entities. One entity is a CDQ group; another is a wholly owned subsidiary of a CDQ group, and two have fewer than 500 employees. One entity is a CDQ group; another is a wholly owned subsidiary of a CDQ group, and the third has fewer than 500 employees. Both the City of Adak and the City of Atka qualify as small entities, as neither has more than 50,000 residents.

Duplicate, Overlapping, or Conflicting Federal Rules

No duplication, overlap, or conflict between this proposed action and existing Federal rules has been identified.

Description of Significant Alternatives That Minimize Adverse Impacts on Small Entities

In addition to the preferred alternative, the Council considered alternatives that would have required the consent of holders of less than 20-percent of the pools of QS and PQS and the consent of shore-based processors in Adak or Atka that processed over a threshold (i.e., 5-percent, 10-percent, or 20-percent) of the West-designated shares in the year preceding the exemption. The Council elected not to select these options, as the large share holders could more efficiently process the exemption, and the small share holders would be adequately represented by the required parties to the exemption (including the cities of Adak and Atka). The inclusion of share holders with less economic incentive to harvest or process West-designated WAG could impede effective negotiations by withholding participation in an exemption to extract more favorable terms from larger entities with greater economic incentive to fully harvest and process the IFQ and IPQ. IFQ and IPQ holders that are substantially invested in the fishery are more likely to act quickly to ensure that TAC is fully utilized. Similarly, holders of significant amounts of PQS are only likely to support an exemption in years when processing capacity is unavailable in the West region, thereby facilitating the processing needs of all IPQ holders.

The Council also considered a variety of other approaches to address the problem identified in the purpose and need statement. One approach considered was an exemption that would be available only after a factual finding of the absence of processing capacity. This provision could be administered either directly by NMFS or by an arbitrator selected by the interested parties. The Council elected not to advance this alternative, as factual findings of the absence of processing capacity may be administratively unworkable. With mobile processing platforms, capacity availability can change in a relatively short time period. Determinations of the availability of capacity may not be possible, given the potential for short-term changes in capacity. Small entities that are IFQ or IPQ holders would be disadvantaged by this alternative, since the exemption may be unavailable during unforeseen interruptions in processing capacity.

The Council also considered a provision under the preferred alternative that would have prohibited any party required to consent to the exemption from unreasonably withholding consent to the exemption. The proposed provision would have been administered by an arbitrator jointly selected by the required parties. Although such a condition might be desirable, NMFS would likely not be able to administer this provision. Even with an arbitrator, NMFS would be required to provide the interested parties with the opportunity to appeal any arbitrator's decision. Under the appeal, NMFS would be required to make a *de novo* finding (i.e., an original finding without deference to the arbitrator's decision). As a result, the use of an arbitrator may delay the granting of the exemption. In addition, NMFS may be unable to expeditiously process any claim, if factual matters are disputed. To accommodate time constraints associated with contesting a party's withholding consent to an exemption, a timeline for application for the exemption would need to be developed. This timeline would limit flexibility and could prevent the exemption from achieving its intended purpose.

The Council also elected not to advance an alternative to remove the West regional delivery requirements altogether. Since the West regional delivery requirements are intended to facilitate the development of processing in the region, when such development is feasible, removal of the exemption would be inappropriate. Although this alternative would have removed the burden of the West regional delivery requirements from small entities holding QS, PQS, IFQ, and IPQ, the alternative would have removed any regulatory inducement to process in the West region. The potential future benefit of those requirements would therefore be denied to the cities of Adak and Atka, which are also defined as small entities. Although the exemption created by the preferred alternative could reduce the potential for the development of processing capacity in the cities of Adak and Atka, it also would provide these two small entities

with the ability to withhold consent, as a means of inducing PQS and IPQ holders to develop processing capacity in the West region.

Recordkeeping and Reporting Requirements

The reporting, recordkeeping, and other compliance requirements could be increased under the proposed action, if parties agree to pursue an exemption. This proposed rule would add recordkeeping and reporting requirements needed to implement the preferred alternative. This includes the application to NMFS for an exemption from the West regional delivery requirements proposed at 50 CFR 680.4(o).

The recordkeeping, reporting, and compliance requirements necessary to implement the preferred alternative would apply to the QS holders, PQS holders, and the municipalities meeting the requirements for eligible signatories, proposed at 50 CFR 680.4(o).

Participation in any application to exempt IFQ and IPQ from the West regional delivery requirements is voluntary, but may be necessary to fully utilize the TAC in seasons when in-region processing facilities cannot meet the capacity requirements of the fishery. Each designated signatory to the application must meet the requirements of the application process proposed at 50 CFR 680.4(o). To request an annual exemption, all designated signatories must contractually agree to submit to NMFS one completed application form, including a signed affidavit. The proposed recordkeeping and reporting requirements are expected to be minimal because all eligible signatories must work together to apply, thereby sharing the cost of developing and submitting an application. The time and cost involved in developing and submitting an application would be less per eligible signatory than it would be if each signatory developed an application individually.

The professional skills necessary to prepare the reporting and recordkeeping requirements that would apply to small entities under this proposed rule include the ability to read, write, and understand English; the ability to use a computer and the Internet; and the authority to take actions on behalf of the designated signatory. Each of the small entities must be capable of complying with the requirements of this proposed rule and have the financial resources to obtain any additional legal or technical expertise that they require to advise them.

Collection-of-Information Requirements

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval under OMB Control No. 0648–0514.

Public reporting burden per response is estimated to average 2 hours for the proposed Application for Annual Exemption from the Western Aleutian Islands Golden King Crab West regional delivery requirements and 4 hours for the appeal letter if the application is denied, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information, to NMFS (*see* **ADDRESSES**) and by e-mail to *OIRA_Submission@omb.eop.gov* or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 680

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: February 9, 2011.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 680 is proposed to be amended as follows:

PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 680 continues to read as follows:

Authority: 16 U.S.C. 1862; Pub. L. 109–241; Pub. L. 109–479.

2. In § 680.4, add paragraph (o) to read as follows:

§ 680.4 Permits.

* * * * *

(o) *Exemption from Western Aleutian Islands golden king crab West regional delivery requirements*—(1) *Request for an Annual Exemption from Western Aleutian Islands golden king crab West regional delivery requirements.* The eligible contract signatories (see qualifications at § 680.4(o)(2)(i)) may submit an application to NMFS to request that NMFS exempt West designated IFQ and West designated IPQ for the Western Aleutian Islands golden king crab (WAG) fishery from the West regional delivery requirements at § 680.7(a)(2) and (a)(4). All eligible contract signatories must submit one completed copy of the application form. The application must be submitted to NMFS using one of the following methods:

(i) *Mail:* Regional Administrator, c/o Restricted Access Management Program, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; or

(ii) *Fax:* 907–586–7354; or

(iii) *Hand delivery or carrier:* NMFS, Room 713, 709 West 9th Street, Juneau, AK 99801.

(2) *Application form.* The application form is available on the NMFS Alaska region Web site (*http://alaskafisheries.noaa.gov*) or from NMFS at the address in paragraph (o)(1)(i) of this section. All information fields on the application form must be accurately completed, including—

(i) *Identification of Eligible Contract Signatories.* Full name of each eligible contract signatory; NMFS person ID; and appropriate information that documents the signatories meet the requirements. If the application is completed by an individual who is the authorized representative, then documentation demonstrating the authorization must accompany the application. Eligible contract signatories are—

(A) *QS holders.* Any person that holds in excess of 20-percent of the West designated WAG QS at the time the contract was signed, or their authorized representative.

(B) *PQS holders.* Any person that holds in excess of 20-percent of the West designated WAG PQS at the time the contract was signed, or their authorized representative.

(C) *Municipalities.* designated officials from both the City of Adak and the City of Atka or an authorized representative.

(ii) *Affidavit affirming master contract has been signed.* Each eligible contract signatory, as described in paragraph (o)(2)(i) of this section, must sign and date an Affidavit affirming that a master contract has been signed to authorize the completion of the application to request that NMFS exempt West designated IFQ and West designated IPQ for the WAG fishery from the West regional delivery requirements. The eligible contract signatories must affirm on the Affidavit that all information is true, correct, and complete to the best of his or her knowledge and belief.

(3) *Effective Date.* A completed application must be approved by NMFS before any person may use WAG IFQ or IPQ with a West regional designation outside of the West region during a crab fishing year. If approved, the effective date of the exemption is the date the application was approved by NMFS. Any delivery of WAG IFQ or IPQ with a West regional designation outside of the West region prior to the effective date of the exemption is prohibited under § 680.7(a)(2) and (a)(4).

(4) *Duration.* An exemption from West regional delivery requirements is only valid for the remainder of the crab fishing year during which the application was approved by NMFS. The exemption expires at the end of the crab fishing year (June 30).

(5) *Approval*—(i) NMFS will approve a completed application for the exemption from Western Aleutian Islands golden king crab West regional delivery requirements if all eligible contract signatories meet the requirements specified in paragraph (o)(2)(i) of this section.

(ii) The Regional Administrator will not consider an application to have been received if the applicant cannot provide objective written evidence that NMFS Alaska Region received it.

(iii) NMFS approval of an annual exemption from the Western Aleutian Islands golden king crab West regional delivery requirements will be made publicly available at the NMFS Web site at *http://alaskafisheries.noaa.gov.*

2. In § 680.7, revise paragraphs (a)(2) and (a)(4) to read as follows:

§ 680.7 Prohibitions.

* * * * *

(a) * * *

(2) Receive CR crab harvested under an IFQ permit in any region other than the region for which the IFQ permit is designated, unless deliveries of West designated WAG IFQ are received pursuant to a NMFS approved exemption from the regional delivery requirements, as described under § 680.4(o).

* * * * *

(4) Use IPQ in any region other than the region for which the IPQ is designated, unless West designated WAG IPQ is used pursuant to a NMFS approved exemption from the regional delivery requirements, as described under § 680.4(o).

* * * * *

[FR Doc. 2011–3398 Filed 2–14–11; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 76, No. 31

Tuesday, February 15, 2011

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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007–0016]

Syngenta Seeds, Inc.; Determination of Nonregulated Status for Corn Genetically Engineered To Produce an Enzyme That Facilitates Ethanol Production

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that a corn line developed by Syngenta Seeds, Inc., designated as transformation event 3272, which has been genetically engineered to produce a microbial enzyme that facilitates ethanol production, is no longer considered a regulated article under our regulations governing the introduction of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by Syngenta Seeds, Inc., in its petition for a determination of nonregulated status, our analysis of available scientific data, and comments received from the public in response to our previous notice announcing the availability of the petition for nonregulated status and its associated environmental assessment and plant pest risk assessment. This notice also announces the availability of our written determination and finding of no significant impact.

DATES: *Effective Date:* February 15, 2011.

ADDRESSES: You may read the documents referenced in this notice and the comments we received 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. Those documents are also available on the Internet at *http://www.aphis.usda.gov/brs/not_reg.html* and are posted with the previous notices and the comments we received on the Regulations.gov Web site at *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS–2007–0016.*

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Andrea Huberty, Biotechnology Regulatory Services, APHIS, 4700 River Road, Unit 146, Riverdale, MD 20737–1236; (301) 734–0485, email: *andrea.f.huberty@aphis.usda.gov.* To obtain copies of the documents referenced in this notice, contact Ms. Cindy Eck at (301) 734–0667, e-mail: *cynthia.a.eck@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

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."

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of § 340.6 describe the form that a petition for a determination of nonregulated status must take and the information that must be included in the petition.

On October 7, 2005, APHIS received a petition seeking a determination of nonregulated status (APHIS Petition No. 05–280–01p) from Syngenta Seeds, Inc., of Research Triangle Park, NC (Syngenta), for corn (*Zea mays* L.) designated as transformation event 3272, which has been genetically engineered to produce a microbial enzyme that facilitates ethanol production. The petition stated that Event 3272 corn is unlikely to pose a plant pest risk and, therefore, should not be a regulated article under APHIS' regulations in 7 CFR part 340.

In a notice [1] published in the **Federal Register** on November 19, 2008 (73 FR 69602–69604, Docket No. APHIS–2007–0016), APHIS announced the availability of the Syngenta petition and a draft environmental assessment (EA) for public comment. APHIS solicited comments on the petition, whether the subject corn is likely to pose a plant pest risk, and on the draft EA for 60 days ending on January 20, 2009. In a subsequent notice published in the **Federal Register** on June 4, 2009 (74 FR 26832–26835, Docket No. APHIS–2007–0016), we reopened the comment period until July 6, 2009.

APHIS received over 13,000 comments during the comment period, most of which conveyed opposition to the deregulation of the Event 3272 corn. APHIS has addressed the issues raised during the comment period and has provided responses to these comments as an attachment to the finding of no significant impact.

National Environmental Policy Act

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with the determination of nonregulated status for Syngenta's Event 3272 corn, an EA has been prepared. The EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on our EA, the response to public comments, and other pertinent scientific data, APHIS has reached a

[1] To view the notice, petition, draft EA, the plant pest risk assessment and the comments we received, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS–2007–0016.*

finding of no significant impact with regard to the preferred alternative identified in the EA.

Determination

Based on APHIS' analysis of field, greenhouse, and laboratory data submitted by Syngenta, references provided in the petition, information analyzed in the EA, the plant pest risk assessment, comments provided by the public, and information provided in APHIS' response to those public comments, APHIS has determined that Syngenta's Event 3272 corn is unlikely to pose a plant pest risk and should be granted nonregulated status.

Copies of the signed determination document, as well as copies of the petition, plant pest risk assessment, EA, finding of no significant impact, and response to comments are available as indicated in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections of this notice.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 11th day of February 2011.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2011–3504 Filed 2–14–11; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2010–0108]

Availability of an Environmental Assessment and Finding of No Significant Impact for a Biological Control Agent for Arundo donax

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that a final environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to a proposed biological control program for *Arundo donax* (giant reed, Carrizo cane). The environmental assessment documents our review and analysis of environmental impacts associated with the proposed biological control program. Based on its finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

FOR FURTHER INFORMATION CONTACT: Dr. Shirley A. Wager-Page, Chief, Pest Permitting Branch, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1237; (301) 734–8453.

SUPPLEMENTARY INFORMATION:

Background

Arundo donax is a highly invasive, bamboo-like weed that was introduced to North America in the early 1500s for its fiber uses. It is among the fastest growing plants in the continental United States, making it a severe threat to riparian habitats and irrigation canals of the Rio Grande River Basin and the Southwestern United States, where it causes erosion, damages bridges, alters channel morphology, increases costs for chemical and mechanical control along transportation corridors, and impedes law enforcement activities along international borders. *A. donax* also consumes excessive amounts of water in arid regions where scarce water supplies are critical to the environment, agriculture, and municipal users. Existing *A. donax* management options include herbicides, prescribed fires, biomass removal, and other control methods, but these measures are expensive, temporary, and have impacts on species other than *A. donax.*

The proposed biological control agent, Arundo scale (*Rhizaspidiotus donacis* (Hemiptera: Diaspididae)), is one of the most damaging insects to *A. donax* in its native range. Arundo scale attacks the rhizome and developing underground buds of *A. donax* by feeding on cells that carry out photosynthesis and cellular respiration, resulting over time in gradual thinning, leaf reduction, and a sickly, yellowish-clouded appearance of the weed. While Arundo scale may not be singularly successful in reducing the *A. donax* population in the continental United States, its use is expected to be effective in combination with other control methods or biological control agents that may be released in the future.

On November 12, 2010, we published in the **Federal Register** (75 FR 69396, Docket No. APHIS–2010–0108) a notice [1] announcing the availability for public review and comment of an environmental assessment (EA), in which we considered the effects of, and alternatives to, the release of Arundo scale into the continental United States for use as a biological control agent to reduce the severity of *A. donax* infestations. The EA evaluated two alternatives: (1) No action and (2) a biological control program (the preferred action).

We solicited comments concerning the environmental assessment for 30 days ending December 13, 2010. We received 12 comments by that date from farmers, State and local government officials, scientists, and the general public. Eleven commenters were in favor of the release of Arundo scale. The remaining commenter expressed general disapproval of APHIS activities but did not provide any substantive concerns regarding Arundo scale that required additional consideration in the EA.

In this document, we are advising the public of our decision and finding of no significant impact (FONSI) regarding a proposed program for the control of *A. donax.* This decision is based upon the final EA, entitled "Field Release of the Arundo Scale, *Rhizaspidiotus donacis* (Hemiptera: Diaspididae), an Insect for Biological Control of *Arundo donax* (Poaceae) in the Continental United States" (December 2010).

The EA and FONSI may be viewed on the Regulations.gov Web site (see footnote 1). Copies of the EA and FONSI are also available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

The EA and FONSI have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 9th day of February 2011.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2011–3368 Filed 2–14–11; 8:45 am]

BILLING CODE 3410–34–P

[1] To view the notice, the environmental assessment, the finding of no significant impact, and the comments we received, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS–2010–0108.*

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2010–0100]

Environmental Impact Statement; Proposed Cattle Fever Tick Control Barrier in South Texas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement and hold public meetings.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service plans to prepare an environmental impact statement to analyze the effects of installing a tick control barrier using game fencing to keep cattle fever ticks and southern cattle ticks out of tick-free areas beyond the permanent quarantine zone in South Texas. This notice identifies potential issues and alternatives that will be studied in the environmental impact statement, requests public comments to further delineate the scope of the alternatives and environmental impacts and issues, and provides notice of public meetings.

DATES: We will consider all comments that we receive on or before March 17, 2011. We will also consider comments made at public meetings to be held on March 7, 8, 9, and 10, 2011.

ADDRESSES: The public meetings will be held in Rio Grande City, TX, Zapata, TX, Laredo, TX, and Eagle Pass, TX (see the **SUPPLEMENTARY INFORMATION** section of this notice for the address of each meeting site). You may submit comments regarding the environmental impact statement by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010–0100* to submit or view public 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–2010–0100, 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–2010–0100.

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.

FOR FURTHER INFORMATION CONTACT: For questions related to the Cattle Fever Tick Eradication Program, contact Dr. Matthew T. Messenger, Staff Entomologist, Cattle Fever Tick Eradication Program Manager, Ruminant Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737; (301) 734–0647. For questions related to the environmental impact statement, contact Ms. Vicki Gutierrez, Environmental Protection Specialist, Environmental and Risk Analysis Services, PPD, APHIS, 4700 River Road Unit 149, Riverdale, MD 20737; (301) 734–4883.

SUPPLEMENTARY INFORMATION:

Background

The Cattle Fever Tick Eradication Program is a cooperative effort between the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture and the Texas Animal Health Commission. The program was established to eliminate bovine babesiosis, a severe and often fatal cattle disease, from the U.S. cattle population. Cattle fever ticks and southern cattle ticks (collectively referred to as "fever ticks") carry protozoan parasites that cause babesiosis. The disease and the fever ticks were officially eradicated from the continental United States in 1943, with the exception of a permanent quarantine zone extending over 500 miles along the Rio Grande from Del Rio, TX, to the Gulf of Mexico.

Current efforts to control fever ticks along the permanent quarantine zone include horseback patrols, a segmented barrier consisting of game fencing, and treatments applied to cattle and deer to keep out ticks carried by stray or smuggled livestock or wildlife. However, an increasing number of fever tick outbreaks have occurred outside the permanent quarantine zone in three of the eight Texas counties through which the zone passes: Maverick, Zapata, and Starr. The increase in outbreaks is attributed to numerous factors, including the free movement of deer and stray livestock carrying ticks across the U.S.-Mexico border and an increase in the overall deer population.

APHIS has determined that the installation of additional game fencing in the permanent quarantine zone would effectively stop the spread of cattle fever ticks by severely limiting or eliminating the movement of wildlife and stray livestock from the quarantine zone into locations where domestic livestock are maintained free of fever ticks.

Under the provisions of the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), Federal agencies must examine the potential environmental effects of proposed Federal actions and alternatives. We are planning to prepare an environmental impact statement (EIS) to analyze the effects of installing a tick control barrier using game fencing to keep fever ticks out of tick-free areas beyond the permanent quarantine zone we have established in South Texas. We are requesting public comment to help us identify or confirm potential alternatives and environmental issues that should be examined in the EIS, as well as comments that identify other issues that should be examined in the EIS.

The EIS will be prepared in accordance with: (1) NEPA, (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

We have identified one alternative and the proposed action for further examination in the EIS:

Take no action. Under this alternative, APHIS would provide no funding toward the installation of game fencing to close gaps existing in game-fenced areas in Maverick County, or in rural areas of Zapata and Starr Counties, TX, to prevent the spread of fever ticks via the free movement of white-tailed deer and other tick hosts into the permanent quarantine zone. This alternative represents the baseline against which a proposed action may be compared and involves no changes to the current situation.

Provide funding toward the installation of a tick barrier utilizing game fencing in rural areas of Maverick, Zapata, and Starr Counties, TX. The proposed action involves APHIS providing funding toward the installation of game fencing on privately owned lands, with landowner consent and cost-share agreement, in rural areas of Maverick, Zapata, and Starr Counties, TX.

We have identified the following potential environmental impacts or issues for further examination in the EIS:

• Effects on wildlife, including consideration of migratory bird species and changes in native wildlife habitat and populations.
• Effects on federally listed threatened and endangered species, including ocelots, Gulf Coast jaguarundis, and plant species.
• Effects on soil, vegetation, and water from the installation of game fencing.
• Effects on local residents, including impacts on daily activities.
• Effects on human health and safety in the proposed tick barrier locations during and after the installation of game fencing.
• Effects on cultural and historic resources that may not have yet been identified through professional surveys.

We welcome comments on the proposed action and on other alternatives and environmental impacts or issues that should be considered for further examination in the EIS.

Public Meetings

We are advising the public that we are hosting four public meetings. The public meetings will be held as follows:
• March 7, 2011, at the Holiday Inn, 5274 East Highway 83 and Blanco Road, Rio Grande City, TX 78582, from 10 a.m. to noon.
• March 8, 2011, at the Zapata Community Center, 607 North U.S. Highway 83, Zapata, TX 78076, from 10 a.m. to noon.
• March 9, 2011, at the Laredo Civic Center, 2400 San Bernardo Avenue, Laredo, TX 78040, from 9 a.m. to noon.
• March 10, 2011, at the Hampton Inn, 3301 East Main Street, Eagle Pass, TX 78852, from 10 a.m. to noon.

These open-house style meetings are intended to allow for an exchange of information about the proposed action and the EIS process and to receive public comments. No advance registration is required to attend the meetings. Interested parties may provide oral or written comments on the scope of the EIS at the meetings. Persons who wish to provide oral comments at a meeting will be asked to register with their names and organizations to establish a record for the meeting. Registration for providing oral comments will begin 30 minutes prior to the opening of each meeting. Oral comments will be taken by an English/Spanish bilingual transcriber in the order of registration at each meeting. The presiding officer may limit the time for each speaker so that all interested persons appearing at each meeting have an opportunity to participate. We ask that anyone who reads a statement provide two copies to the presiding officer of the meeting. Written comments may also be submitted electronically or by postal mail as described in the **ADDRESSES** section of this notice.

All comments on this notice will be carefully considered in developing the final scope of the EIS. Upon completion of the draft EIS, a notice announcing its availability and an invitation to comment on it will be published in the **Federal Register**. The notice of availability will also be published in local newspapers in English and Spanish.

Done in Washington, DC, this 9th day of February 2011.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2011–3364 Filed 2–14–11; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2010–0046]

Codex Alimentarius Commission: Meeting of the Codex Committee on Contaminants in Food

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), and the Food and Drug Administration (FDA), U.S. Department of Health and Human Services, are sponsoring a public meeting on February 22, 2011. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States (U.S.) positions that will be discussed at the 5th Session of the Codex Committee on Contaminants in Food (CCCF) of the Codex Alimentarius Commission (Codex), which will be held in The Hague, The Netherlands, March 21–25, 2011. The Under Secretary for Food Safety and FDA recognize the importance of providing interested parties the opportunity to obtain background information on the 5th Session of the CCCF and to address items on the agenda.

DATES: The public meeting is scheduled for Tuesday, February 22, 2011, from 1 to 3 p.m.

ADDRESSES: The public meeting will be held at the Harvey W. Wiley Federal Building, Room 1A–001, FDA, Center for Food Safety and Applied Nutrition (CFSAN), 5100 Paint Branch Parkway, College Park, MD 20740. Documents related to the 5th Session of the CCCF will be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net/current.asp.*Nega Beru, PhD, the U.S. Delegate to the 5th Session of the CCCF, invites interested U.S. parties to submit their comments electronically to the following e-mail address: *henry.kim@fda.hhs.gov.*

Registration: Attendees may register electronically at the same e-mail address provided above by February 18, 2011. The meeting will be held in a Federal building, therefore, early registration is encouraged as it will expedite entry into the building and its parking area. You should also bring photo identification and plan for adequate time to pass through security screening systems. If you require parking, please include the vehicle make and tag number when you register. Attendees that are not able to attend the meeting in-person but wish to participate may do so by phone.

Call-In Number: If you wish to participate in the public meeting for the 5th Session of the CCCF by conference call, please use the call-in number and participant code listed below:

Call-in Number: 1–866–692–3158.

Participant Code: 5986642.

For Further Information About the 5th Session of the CCCF Contact: Henry Kim, Ph.D., Office of Food Safety, CFSAN/FDA, HFS–317, 5100 Paint Branch Parkway, College Park, MD 20740. Telephone: (301) 436–2023, Fax: (301) 436–2651, e-mail: *henry.kim@fda.hhs.gov.*

For Further Information About the Public Meeting Contact: Barbara McNiff, U.S. Codex Office, 1400 Independence Avenue, SW., Room 4870, Washington, DC 20250. Telephone: (202) 690–4719, Fax: (202) 720–3157, e-mail: *barbara.mcniff@fsis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1963 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure that fair practices are used in the food trade.

The CCCF establishes or endorses permitted maximum levels of contaminants, and where necessary revises existing guidelines for

contaminants and naturally occurring toxicants in food and feed; prepares priority lists of contaminants and naturally occurring toxicants for risk assessment by the Joint FAO/WHO Expert Committee on Food Additives (JECFA); considers and elaborates methods of analysis and sampling for the determination of contaminants and naturally occurring toxicants in food and feed; considers and elaborates standards or codes of practice for related subjects; and considers other matters assigned to it by Codex in relation to contaminants and naturally occurring toxicants in food and feed.

The Committee is chaired by The Netherlands.

Issues To Be Discussed at the Public Meeting

The following items on the agenda for the 5th Session of the CCCF will be discussed during the public meeting:

- Matters Referred to the CCCF by Codex and other Codex Committees and Task Forces.
- Matters of Interest Arising from FAO and WHO (including JECFA).
- Matters of Interest Arising from other International Organizations—International Atomic Energy Agency
- Proposed Draft Code of Practice for the Reduction of Ethyl Carbamate in Stone Fruit Distillates.
- Proposed Draft Maximum Levels for Melamine in Food (*Liquid infant formula*).
- Proposed Draft Maximum Levels for Deoxynivalenol and its Acetylated Derivatives in Cereals and Cereal-based Products.
- Proposed Draft Maximum Levels for Total Aflatoxins in Dried Figs.
- Editorial Amendments to the General Standard for Contaminants and Toxins in Foods and Feeds.
- Discussion Paper on Mycotoxins in Sorghum.
- Discussion Paper on Arsenic in Rice.
- Discussion Paper on Guidance for Risk Management. Options on How to Deal with the Results from New Risk Assessment Methodologies.
- Discussion Paper on Ochratoxin A in Cocoa.
- Discussion Paper on Furan.
- Discussion Paper on Pyrrolizidine Alkaloids.
- Endorsement of Provisions for Health-related Limits for Certain Substances in the Standard for Natural Mineral Waters.
- Priority List of Contaminants and Naturally Occurring Toxicants Proposed for Evaluation by JECFA.

Each issue listed will be fully described in documents distributed, or to be distributed, by the Secretariat prior to the meeting. Members of the public may access these documents (*see* **ADDRESSES**).

Public Meeting

At the February 22, 2011, public meeting, draft U.S. positions on the agenda items will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to Dr. Henry Kim for the 5th Session of the CCCF (*see* **ADDRESSES**). Written comments should state that they relate to activities of the 5th Session of the CCCF.

USDA Nondiscrimination Statement

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Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that the public and in particular minorities, women, and persons with disabilities, are aware of this notice, FSIS will announce it on-line through the FSIS Web page located at *http://www.fsis.usda.gov/regulations_&_policies/Federal_Register_Notices/index.asp.*

FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is communicated via Listserv, a free e-mail subscription service consisting of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The Update also is available on the FSIS Web page. Through Listserv and the Web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an e-mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/News_&_Events/Email_Subscription/.* Options range from recalls, export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done at Washington, DC, on February 4, 2011.

Karen Stuck,

U.S. Manager for Codex Alimentarius.

[FR Doc. 2011–3362 Filed 2–14–11; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Idaho Panhandle 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. 110–343) the Idaho Panhandle Resource Advisory Committee will meet Friday, February 18, 2011, at 9 a.m. in Coeur d'Alene, Idaho for a business meeting. The business meeting is open to the public.

DATES: February 18, 2011.

ADDRESSES: The meeting location is the Idaho Panhandle National Forests' Supervisor's Office, located at 3815 Schreiber Way, Coeur d'Alene, Idaho 83815.

FOR FURTHER INFORMATION CONTACT: Ranotta K. McNair, Forest Supervisor and Designated Federal Official, at (208) 765–7369.

SUPPLEMENTARY INFORMATION: The meeting agenda will focus on reviewing proposals for forest projects and recommending funding during the business meeting.

The public forum begins at 11 a.m.

Dated: February 4, 2011.

Ranotta K. McNair,

Forest Supervisor.

[FR Doc. 2011–3069 Filed 2–14–11; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Section 538 Guaranteed Rural Rental Housing Program 2011 Industry Forums—Open Teleconference and/or Web Conference Meetings

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces a series of teleconference and/or Web conference meetings regarding the USDA Section 538 Guaranteed Rural Rental Housing Program, which are scheduled to occur during the months of February, June, and October of 2011. This notice also outlines suggested discussion topics for the meetings and is intended to notify the general public of their opportunity to participate in the teleconference and/or Web conference meetings.

DATES: The dates and times for the teleconference and/or Web conference meetings will be announced via e-mail to parties registered as described below.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to register for the calls and obtain the call-in number, access code, Web link and other information for any of the public teleconferences and or Web conferences may contact Monica Cole, Financial and Loan Analyst, Multifamily Housing Guaranteed Loan Division, Rural Development, U.S. Department of Agriculture, telephone: (202) 720–1251, fax: (202) 205–5066, or e-mail: *monica.cole@wdc.usda.gov.* Those who request registration less than 15 calendar days prior to the date of a teleconference and/or Web conference meetings may not receive notice of that teleconference and/or Web conference meeting, but will receive notice of future teleconference and/or Web conference meetings. The Agency expects to accommodate each participant's preferred form of participation by telephone or via Web link. However, if it appears that existing capabilities may prevent the Agency from accommodating all requests for one form of participation, each participant will be notified and encouraged to consider an alternative form of participation. Individuals who plan to participate and need language translation assistance should inform the Contact Person within ten business days in advance of the meeting date.

SUPPLEMENTARY INFORMATION: The objectives of this series of teleconferences are as follows:

- Enhance the effectiveness of the Section 538 Guaranteed Rural Rental Housing Program.
- Establish a two way communications forum to update industry participants and Rural Housing Service (RHS) staff.
- Enhance RHS' awareness of the market and other forces that impact the Section 538 Guaranteed Rural Rental Housing Program.

Topics to be discussed could include but will not be limited to the following:

- Updates on USDAs Section 538 Guaranteed Rural Rental Housing Program activities.
- Perspectives on the current state of debt financing and its impact on the Section 538 program.
- Enhancing the use of Section 538 financing with the transfer and/or preservation of Section 515 developments.
- The impact of Low Income Housing Tax Credits program changes on Section 538 financings.

USDA prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, *etc.*) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250–9410, or call (800) 795–3272 (voice), or (202) 720–6382 (TDD). "USDA is an equal opportunity provider, employer, and lender."

Dated: February 3, 2011.

Tammye Treviño,

Administrator, Rural Housing Service.

[FR Doc. 2011–3300 Filed 2–14–11; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Advisory Committee on Earthquake Hazards Reduction Meeting

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Earthquake Hazards Reduction (ACEHR or Committee), will meet Thursday, March 10, 2011 from 8:30 a.m. to 5 p.m. and Friday, March 11, 2011, from 8:30 a.m. to 4 p.m. The primary purpose of this meeting is to gather information for the Committee's 2011 Annual Report of the Effectiveness of the National Earthquake Hazards Reduction Program (NEHRP). The agenda may change to accommodate Committee business. The final agenda will be posted on the NEHRP Web site at *http://nehrp.gov/.*

DATES: The ACEHR will meet on Thursday, March 10, 2011, from 8:30 a.m. until 5 p.m. The meeting will continue on Friday, March 11, 2011, from 8:30 a.m. until 4 p.m. The meeting will be open to the public.

ADDRESSES: The meeting will be held in the Heritage Room, Administration Building, National Institute of Standards and Technology (NIST), 100 Bureau Drive, Gaithersburg, Maryland 20899. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Dr. Jack Hayes, National Earthquake Hazards Reduction Program Director, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8604, Gaithersburg, Maryland 20899–8604. Dr. Hayes' e-mail address is *jack.hayes@nist.gov* and his phone number is (301) 975–5640.

SUPPLEMENTARY INFORMATION: The Committee was established in accordance with the requirements of Section 103 of the NEHRP Reauthorization Act of 2004 (Pub. L. 108–360). The Committee is composed of 15 members, appointed by the Director of NIST, who were selected for their technical expertise and experience, established records of distinguished professional service, and their knowledge of issues affecting the National Earthquake Hazards Reduction Program. In addition, the Chairperson of the U.S. Geological Survey (USGS) Scientific Earthquake Studies Advisory Committee (SESAC) serves in an ex officio capacity on the Committee. The Committee assesses:

• Trends and developments in the science and engineering of earthquake hazards reduction;
• The effectiveness of NEHRP in performing its statutory activities;
• Any need to revise NEHRP; and
• The management, coordination, implementation, and activities of NEHRP.

Background information on NEHRP and the Committee is available at *http://nehrp.gov/.*

Pursuant to the Federal Advisory Committee Act, 5 U.S.C., notice is hereby given that the ACEHR will meet Thursday, March 10, 2011 from 8:30 a.m. to 5 p.m. and Friday, March 11, 2011, from 8:30 a.m. to 4 p.m. The meeting will be held in the Heritage Room, Administration Building, NIST, 100 Bureau Drive, Gaithersburg, Maryland 20899. The primary purpose of this meeting is to gather information for the Committee's 2011 Annual Report of the Effectiveness of the NEHRP. The agenda may change to accommodate Committee business. The final agenda will be posted on the NEHRP Web site at *http://nehrp.gov/.*

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Committee's affairs are invited to request a place on the agenda. On March 11, 2011, approximately one-half hour will be reserved near the conclusion of the meeting 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 3 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 ACEHR, National Institute of Standards and Technology, 100 Bureau Drive, MS 8630, Gaithersburg, Maryland 20899–8630, via fax at (301) 975–5433, or electronically by e-mail to *info@nehrp.gov.*

All visitors to the NIST site are required to pre-register to be admitted. Anyone wishing to attend this meeting must register by close of business Tuesday, March 1, 2011, in order to attend. Please submit your full name, e-mail address, and phone number to Michelle Harman. Non-U.S. citizens must also submit their country of citizenship, title, and employer/sponsor. Mrs. Harman's e-mail address is *michelle.harman@nist.gov* and her phone number is (301) 975–5324.

Dated: February 9, 2011.

Charles H. Romine,

Acting Associate Director for Laboratory Programs.

[FR Doc. 2011–3378 Filed 2–14–11; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA217

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) will hold a meeting, via conference call, of its Coastal Pelagic Species Management Team (CPSMT) and Coastal Pelagic Species Advisory subpanel (CPSAS). The meeting is open to the public.

DATES: The conference call will be held Monday, February 28, 2011, from 2 p.m. until 4 p.m. Pacific Time.

ADDRESSES: A listening station will be available at the Pacific Council offices. Please contact the Pacific Council Staff Officer for accommodations.

FOR FURTHER INFORMATION CONTACT: Kerry Griffin, Staff Officer; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: The purpose of the joint conference call is to consider any CPS-related fisheries research proposals that will require an Exempted Fishing Permit (EFP) from NMFS. At its March meeting, the Pacific Council will consider adopting for public review any proposals that are submitted. The CPSMT and CPSAS will discuss any EFP proposals, and will develop statements to be included in the March Council meeting record.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: February 10, 2011.

Tracey L. Thompson,

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

[FR Doc. 2011–3392 Filed 2–14–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA142

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Application for a scientific research permit.

SUMMARY: Notice is hereby given that NMFS has received a scientific research permit application request relating to salmonids listed under the Endangered Species Act (ESA). The proposed research is intended to increase knowledge of the species and to help guide management and conservation efforts.

DATES: Written comments on the permit application must be received at the appropriate address or fax number (*see* **ADDRESSES**) no later than 5 p.m. Pacific standard time on March 17, 2011.

ADDRESSES: Written comments on this application should be submitted to the Protected Resources Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404. Comments may also be submitted via fax to (707) 578–3435 or by e-mail to *FRNpermits.SR@noaa.gov.* The applications and related documents may be viewed online at: *https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm.* These documents are also available upon written request or by appointment by contacting NMFS by phone (707) 575–6097 or fax (707) 578–3435.

FOR FURTHER INFORMATION CONTACT: Jeffrey Jahn, Santa Rosa, CA (ph.: 707–575–6097, e-mail: *Jeffrey.Jahn@noaa.gov*).

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

This notice is relevant to federally threatened California Coastal Chinook salmon (*Oncorhynchus tshawytscha*), endangered Central California Coast coho salmon (*O. kisutch*), and threatened Central California Coast steelhead (*O. mykiss*).

Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA of 1973 (16 U.S.C. 1531–1543) and regulations governing listed fish and wildlife permits (50 CFR parts 222–226). NMFS issues permits based on findings that such permits: (1) Are

applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on the application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (*see* **ADDRESSES**). Such hearings are held at the discretion of the Assistant Administrator for Fisheries, NMFS.

Application Received

Permit 14419

The Sonoma County Water Agency (SCWA) is requesting a 10-year scientific research permit to take adult and juvenile California Coastal(CC) Chinook salmon, adult and juvenile Central California Coast (CCC) coho salmon, and adult and juvenile CCC steelhead associated with five research projects in the Russian River watershed in in central California. The goal is to detect and depict trends in ESA-listed salmonid populations in the Russian River watershed and to monitor the results of salmonid habitat enhancement efforts in this watershed. Many of the proposed research and monitoring activities are associated with the Reasonable and Prudent Alternative within a NMFS Biological Opinion issued to the Corps of Engineers and SCWA on September 24, 2008, under section 7 of the ESA. Some of the take associated with capture and handling of fish is already covered under the Incidental Take Statement associated with the Biological Opinion.

Methods employed to accomplish research objectives will consist of downstream-migrant trapping (rotary screw traps, fyke nets, and pipe/funnel nets), electrofishing (backpack and boat), beach seining, fin-clipping, scale sampling, passive integrated transponder (PIT) tagging, acoustic/radio telemetry, otolith extraction, and anesthetizing and handling fish to obtain length and weight data. In the five studies described below, researchers will ensure that all sampling activities minimize the risk of injury to fish though a small number of ESA-listed salmonids may die as an unintended result of the research activities. In one study, a small number of threatened ESA-listed salmonids will be sacrificed for otolith removal and michrochemical analysis.

Study 1 will document the abundance and timing of young of the year (YOY) and juvenile steelhead emigrating from lower-river tributaries into the lower mainstem Russian River and/or estuary. This study will identify the relative contribution of YOY salmonids from tributaries to overall populations of salmonids entering the estuary and estimate the relative abundance of steelhead smolts produced from each tributary.

The SCWA proposes to capture and tag juvenile CCC steelhead using downstream migrant traps in tributaries to the Russian River and near the upstream boundary of the Russian River estuary. A portion of the captured juvenile steelhead will be anesthetized for collection of size data; a subset of individuals will be PIT tagged and scale sampled. All other captured salmonids will be released immediately downstream from the trap. At each site, the SCWA will estimate trapping and detection efficiency by fin-clipping a portion of captured salmonids, releasing them upstream of the trap, and then estimating the number of migrating fin-clipped fish by collecting recapture data at traps, by monitoring migrating fish via a video system and/or by analyzing scale growth patterns.

The SCWA implements habitat enhancement projects throughout the Russian River watershed and seeks to understand the relationship between these projects and CCC steelhead abundance. Study 2 will depict patterns in the relative annual abundance of CCC steelhead and changes in fish communities in the mainstream Russian River and selected tributaries. This study will compare recruitment of steelhead in stream reaches where habitat enhancements have been implemented with reaches without enhancements.

In Study 2, the SCWA proposes to capture, anesthetize, and scale sample a maximum of 30 juvenile CCC steelhead individuals from two size classes in multiple reaches of the mainstem Russian River and 16 tributaries. All remaining steelhead individuals will not be scale sampled but will be enumerated, categorized by size class, and released. Fish in tributaries will be observed by snorkeling and/or captured by backpack electrofishing. Fish in the mainstem Russian River may be captured by backpack or boat electrofishing and/or snorkeling. Data obtained will include abundance estimates and size ranges.

The Biological Opinion requires that the SCWA sample diets of juvenile steelhead in the Russian River estuary. In Study 3, the SCWA is proposing to expand this task in scope by assessing the diets of juvenile salmonids across broad habitat types (tributaries, mainstem and estuary) in the Russian River watershed and increasing the target species. The salmonid life stages and species targeted are Chinook salmon smolt, coho salmon juvenile and smolt, and juvenile steelhead. Data could indicate the value of continued implementation of habitat enhancement projects by showing that these efforts increase food availability and associated somatic growth of juvenile salmonids.

In Study 3, data will be collected from fish that have been captured through other studies as described in this research proposal. The diets of juvenile ESA-listed salmonids will be sampled using gastric lavage, a standard technique for fish dietary analyses that uses water to flush the stomach contents out through the esophagus. Fish will be anesthetized prior to the stomach lavage and will not be released until they make a full recovery.

Project 4 utilizes otolith microchemistry, radio/acoustic telemetry, and PIT tags to define the relative role of freshwater, estuarine, and marine habitats in structuring salmonid populations in the Russian River. The salmonid life stages and species targeted are CC Chinook salmon smolts, CCC coho salmon juveniles and smolts, and CCC steelhead juveniles and smolts. Metrics for salmonids will include: initial size in tributaries, entry time and size for mainstem Russian River and the estuary, and entry time for the marine environment. The data will be used to provide life cycle and habitat specific estimates of residence time, growth, and survival so that resource management agencies can better identify and prioritize key restoration options in the Russian River watershed.

SCWA researchers propose to collect otoliths and scales from adult carcasses and a small number of sacrificed juvenile CC Chinook salmon and CCC steelhead to determine fish ages, size at estuary and ocean entry, and differences in growth rates across habitat types. Researchers will collect adult carcasses during annual spawning surveys. Carcasses will be measured and sampled for otoliths and scales.

Additionally, in Study 4, the SCWA will use acoustic/radio telemetry to determine specific residence times and movements both within and across habitat types for CC Chinook smolts, CCC coho smolts, and CCC steelhead smolts. Individuals will be captured at downstream migrant traps and tagged with acoustic tags and PIT tags.

Study 5 will assess the impact of predators on juvenile salmonid survival

in the Russian River mainstem between the Dry Creek confluence and the estuary. Backpack and boat electrofishing, hook and line sampling and otter trawling (in the estuary) will be utilized to capture native and non-native species inhabiting the river to understand the relative abundance of predatory species. Timing and gear will minimize capture of salmonids, if ESA-listed salmonids are captured they will be held in a live well with oxygenated water, measured and released. All adult piscivorous fish captured will be measured, scale sampled and will have their stomach contents removed and analyzed.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the application, associated documents, and comments submitted to determine whether the application meets the requirements of section 10(a) of the ESA and Federal regulations. The final permit decision will not be made until after the end of the 30-day comment period. NMFS will publish notice of its final action in the **Federal Register**.

Dated: February 9, 2011.

Therese Conant,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–3399 Filed 2–14–11; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Technology Advisory Committee

AGENCY: Commodity Futures Trading Commission ("CFTC").

ACTION: Notice of meeting of Technology Advisory Committee.

SUMMARY: The Technology Advisory Committee will hold a rescheduled public meeting on March 1, 2011, from 1 p.m. to 5 p.m., at the CFTC's Washington, DC headquarters.

DATES: The meeting will be held on March 1, 2011 from 1 p.m. to 5 p.m. The meeting was previously scheduled for January 27, 2011, but has been rescheduled. Members of the public who wish to submit written statements in connection with the meeting should submit them by February 28, 2011.

ADDRESSES: The meeting will take place in the first floor hearing room at the CFTC's headquarters, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Written statements should be submitted to: Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, Attention: Office of the Secretary. Please use the title "Technology Advisory Committee" in any written statement you may submit. Any statements submitted in connection with the committee meeting will be made available to the public.

FOR FURTHER INFORMATION CONTACT: Laura Gardy, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, (202) 418–5354.

SUPPLEMENTARY INFORMATION: Matters to be addressed at the meeting are:

Recommendations from the Pre-trade Functionality Subcommittee

Consideration of Technology Challenges for Implementation of Architectures for Trade Processing and Records Management

The meeting will be webcast on the CFTC's Web site, *http://www.cftc.gov.* Members of the public also can listen to the meeting by telephone. The public access call-in numbers will be announced at a later date.

Authority: 5 U.S.C. app. 2 § 10(a)(2)

By the Commodity Futures Trading Commission.

Dated: February 9, 2011.

David A. Stawick,

Secretary of the Commission.

[FR Doc. 2011–3345 Filed 2–14–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2011–HA–0019]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Assistant Secretary of Defense for Health Affairs announces a proposed new public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 18, 2011.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, Mailroom 3C843, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of Strategy Management (OSM)/OASD/HA TMA, ATTN: Dr. Michael Dinneen, 5111 Leesburg Pike, Suite 601, Falls Church, VA 22041–3206, or call OSM, Office of Strategy Management, at 703–681–1703.

Title; Associated Form; and OMB Number: Electronic Health Record (EHR) Usability Survey; OMB Control Number 0720–TBD.

Needs and Uses: The intended use of the information collection is to develop a longitudinal measure of how end-users perceive the usability of the Department of Defense (DoD) suite of Electronic Health Record (EHR) applications.

Until recently, understanding the performance of EHR systems focused on functionality and user satisfaction. Now the focus has shifted towards understanding the usability of a system. This usability attribute describes the ease with which people can use the system to achieve a goal, and consists of three measurable components: efficiency, effectiveness, and satisfaction.

As the Military Health Systems (MHS) moves towards developing the next generation of EHR applications, it is important to obtain baseline usability

data of our current suite of applications and be able to monitor changes over time as the new EHR is deployed. Over the next five years, the DoD will make a significant investment to deliver a new EHR solution and it will be important to accurately assess the benefits realized as a result of this investment.

Affected Public: MTF contractor providers and support staff.

Annual Burden Hours: 628.

Number of Respondents: 942.

Responses per Respondent: 4.

Average Burden per Response: 10 minutes.

Frequency: Quarterly.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are contracted medical professionals and support staff who utilize the current EHR systems. The survey will be administered via a MHS/DoD platform that will capture response data internally. The survey will be administered via an online tool on a quarterly basis to a selected population sample of users. The respondents will only be included in the population sample once per twelve month period to minimize response bias and burden. The population sample will receive a pre-notification, and reminder notifications to encourage participation.

Dated: February 10, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–3333 Filed 2–14–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 11–05]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, DoD.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Mr. M. Rothamel, DSCA/DBO/CFM, (703) 602–1321.

SUPPLEMENTARY INFORMATION: The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 11–05 with attached transmittal and policy justification.

Dated: February 9, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

FEB 0 1 2011

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 11-05, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Australia for defense articles and services estimated to cost $1.6 billion. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

William E. Landay III
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification

Transmittal No. 11-05

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Australia

(ii) Total Estimated Value:

Major Defense Equipment*	$ 0 billion
Other	$ 1.6 billion
TOTAL	$ 1.6 billion

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: Ten year Through-Life-Support (TLS) for (24) MH-60R Multi-Mission Helicopters. The sustainment effort will include spare and repair parts provisioning, support and test equipment, publications and technical documentation, U.S. Government and contractor engineering, technical and logistics support services, and other related elements of logistical and program support.

(iv) Military Department: Navy (GXO)

(v) Prior Related Cases, if any: None

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: None

(viii) Date Report Delivered to Congress: 1 February 2011

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Australia – Sustainment for (24) MH-60R Multi-Mission Helicopters

The Government of Australia has requested a possible sale of ten year Through-Life-Support (TLS) for (24) MH-60R Multi-Mission Helicopters. The sustainment effort will include spare and repair parts provisioning, support and test equipment, publications and technical documentation, U.S. Government and contractor engineering, technical and logistics support services, and other related elements of logistical and program support. The estimated cost is $1.6 billion.

Australia, one of our most important allies in the Western Pacific, contributes significantly to ensuring peace and economic stability in the region. Australia's efforts in peacekeeping and humanitarian operations in Iraq and in Afghanistan have served U.S. national security interests.

The proposed sale will provide Australia the resources necessary to properly maintain its 24 MH-60R helicopters. Australia, which already has S-70B helicopters in its inventory, will have no difficulty performing the actions necessary to properly sustain these additional helicopters.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractors will be Sikorsky Aircraft Corporation of Stratford, Connecticut; Lockheed Martin of Owego; New York; GE of Lynn, Massachusetts; and the Raytheon Corporation of Portsmouth, Rhode Island. There are no known offset agreements proposed in connection with this potential sale

Implementation of this proposed sale will require temporary assignment of approximately 20 U.S. Government and contractor representatives to Australia on an intermittent basis over the life of the case.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2011–3334 Filed 2–14–11; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Proposed Solicitation for Cooperative Agreement Applications (SCAA)

AGENCY: Defense Logistics Agency, DoD.

ACTION: Proposed solicitation for cost sharing cooperative agreement applications.

SUMMARY: The Defense Logistics Agency (DLA) executes the DoD Procurement Technical Assistance Program (PTAP) by awarding cost sharing cooperative agreements to assist eligible entities in establishing or maintaining procurement technical assistance centers (PTACs) pursuant to Chapter 142 of title 10, United States Code. Eligible entities include states, local governments, private nonprofit organizations, tribal organizations and economic enterprises.

In order to maintain continuity of the program, DLA will be issuing a Solicitation for Cooperative Agreement Applications (SCAA) for tribal organizations and economic enterprises, as defined by 10 U.S.C. 2411(1)(D) (a separate SCAA was previously issued for other eligible entities; see 75 FR 24663). This SCAA will be a follow-on to SCAA issued on April 7, 2008 and to the SCAA issued on May 5, 2009. When issued, the SCAA will govern the submission of applications to be considered for base year cost sharing cooperative agreement awards in Fiscal Year 2011. The SCAA will also allow for two option period awards in Fiscal Years 2012 and 2013.

A proposed version of this SCAA, which contains a number of changes from previous solicitations, will be posted for comment on or about February 15, 2011 at *http://www.dla.mil/db/ptap.asp* (select "Information for PTAP funding recipients" at the bottom of the page). Printed copies are not available for distribution.

Written comments regarding this proposed SCAA may be submitted via mail to Headquarters, Defense Logistics Agency, Office of Small Business Programs (Attn: Grants Officer), 8725 John J. Kingman Road, Suite 1127, Fort Belvoir, VA 22060–6221 or via e-mail to *PTAP@dla.mil.*

All comments must be received by March 22, 2011 for them to receive consideration. It is anticipated that the final SCAA will be posted on the DLA Web site by April 4, 2011. A notice will be posted at Grants.gov announcing the SCAA along with details on how to submit applications.

FOR FURTHER INFORMATION CONTACT: DLA Office of Small Business Programs at (703) 767–0192.

Dated: February 9, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–3332 Filed 2–14–11; 8:45 am]
BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Record of Decision for the Disposal and Reuse of Naval Air Station Brunswick, ME

AGENCY: Department of the Navy, DoD.

ACTION: Notice of record of decision.

SUMMARY: The U.S. Department of the Navy (Navy) announces its decision to dispose of the Naval Air Station (NAS) Brunswick property and its outlying properties (defined as the McKeen Street Housing Annex, East Brunswick Radio Transmitter Site, and Sabino Hill Rake Station) in a manner consistent with the Brunswick Naval Air Station Reuse Master Plan as outlined in the Final Environmental Impact Statement (FEIS) under Alternative 1, the Preferred Alternative.

FOR FURTHER INFORMATION CONTACT: Mr. David Drozd, BRAC Program Management Office (PMO) Northeast, 4911 Broad Street, Building 679, Philadelphia, Pennsylvania 19112–1303; telephone: 215–897–4909; e-mail: *david.drozd@navy.mil.*

The complete text of the ROD is available for public viewing on the Navy's BRAC PMO Web site at *http://www.bracpmo.navy.mil/BrunswickEIS.aspx* along with copies of the FEIS.

SUPPLEMENTARY INFORMATION: The Navy is required to close NAS Brunswick, in accordance with Public Law 101–510, the Defense Base Closure and Realignment Act of 1990, as amended in 2005 (BRAC Closure Law). Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321, *et seq.;* Council on Environmental Quality Regulations (40 CFR parts 1500–1508); and Navy regulations (32 CFR part 775), the Navy announces its decision to dispose of NAS Brunswick and its outlying properties in a manner consistent with the Brunswick Naval Air Station Reuse Master Plan (Reuse Master Plan) as developed and approved by the Brunswick Local Redevelopment Authority (BLRA). Full build-out of the Preferred Alternative is proposed to be implemented over a 20-year period. It is expected the redevelopment would follow the Reuse Plan's Community Design Guidelines and would incorporate low-impact development, smart growth principles, best management practices, and redevelopment design measures that incorporate energy conservation. The Preferred Alternative identified in the FEIS by the Navy best meets the purpose and need of the proposed action.

Environmental Impacts

Land Use: The Preferred Alternative would result in changes to existing land use conditions on the installation, including a more intensively built environment, new land uses, and open public access to the formerly secure and restricted military property. The Preferred Alternative is consistent with the Town of Brunswick 2008 Comprehensive Plan and Zoning Ordinance.

Cultural Resources: Under Section 106 of the National Historic Preservation Act, the Navy has completed formal Section 106 consultation to resolve all adverse effects to historic properties. Twenty structures on the installation property are eligible for listing in the National Register of Historic Places (NRHP) and thirty-five archaeological sites have been identified. The Navy and the Maine State Historic Preservation Office (SHPO) have finalized and executed a Programmatic Agreement (PA) that identifies measures to avoid, minimize, or mitigate the adverse effect of the proposed action on historic properties.

Biological Resources: There are no federally listed threatened or endangered species on the NAS Brunswick property. Three state-listed species are present, the upland sandpiper, grasshopper sparrow, and clothed sedge. There would be a potential impact on these three species because prime Sandplain Greenland habitat could be permanently removed because of development. The Sandplain Greenland habitat is considered a significant wildlife habitat under the Maine Natural Resource Protection Act (MNRPA). A permit would likely be required for any development within this habitat area. Such permitting would likely require review and approval from the Maine Department of Inland Fisheries and Wildlife (MDIFW) and Maine Natural Areas Program (MNAP).

Transportation: A net increase in vehicle trips and impacts on transportation could be mitigated by the developer through the planned expansion of and updates to existing roadways in the area.

Storm Water Management: Storm water mitigation will be outlined by the developer in a storm water management plan, as required by the Town of Brunswick.

Sediment and Erosion Control: Redevelopment of NAS Brunswick has the potential to cause soil erosion. The developer will be required to utilize mitigation measures in accordance with Maine's Erosion and Sediment Control Law and other applicable state laws.

Wetland Impacts: Implementation of the Preferred Alternative could potentially impact 51 acres of wetlands. In accordance with the Clean Water Act and MNRPA, wetland disturbance must be avoided by the developer where possible. If the developer cannot avoid wetland impacts, a wetland permit application will be required along with any necessary mitigation plan. Any potential impacts on significant vernal pools will require the developer to consult with the Maine Department of Environmental Protection (MDEP) and obtain a MNRPA permit.

Wildlife Habitat: Any redevelopment activities that may impact significant wildlife habitat will require the future developer to consult with the MNAP and MEDEP, as well as a permit from the NRPA. The consultation and permit processes will identify specific mitigation measures.

Response to Comments Received Regarding the FEIS: The Navy received comments from two agencies on the FEIS, the EPA and the state of Maine SHPO. The EPA recommended the Navy condition property transfer to address storm water management, Energy/LEED, and construction emissions requirements. The Navy expects that redevelopment will follow the Community Design Guidelines from the Reuse Master Plan, and applicable laws and regulations.

The Maine SHPO expressed concerns that the archaeological site at the East Brunswick Radio Transmitter Site was missing from the maps in the FEIS. The location of this site and other archaeological and culturally sensitive resources are identified in the Programmatic Agreement, Appendix O. In order to preserve the sensitivity of the specific site location, the figures and maps are not included; however, they are available to appropriate organizations and agencies.

Conclusions: In determining how to dispose of and reuse NAS Brunswick and its outlying properties, the following factors were considered: the results of the analysis of environmental and socioeconomic effects within the FEIS, relevant federal and state statutes and regulations, Midcoast Regional Redevelopment Authority's design guidelines, compatibility with the Reuse Master Plan and Town of Brunswick Zoning, and the comments received during the EIS process. After carefully weighing all of these factors and analyzing the data presented in the FEIS, the Preferred Alternative best meets the needs of the Navy while minimizing potential environmental impacts. The preferred alternative reuses the existing airfield and existing infrastructure at NAS Brunswick and promotes smart growth redevelopment, including walkable communities in a mix of residential and commercial uses. The preferred alternative preserves open space and provides the community with recreation areas. It provides for the disposal of NAS Brunswick and its outlying properties by the Navy in a manner consistent with Reuse Master Plan and provides the local communities in the Brunswick Labor Market Area with the opportunity for economic development and job creation.

Dated: February 8, 2011.

D.J. Werner,

Lieutenant Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2011–3402 Filed 2–14–11; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before March 17, 2011.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or e-mailed to *oira_submission@omb.eop.gov* with a cc: to *ICDocketMgr@ed.gov.* Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: February 10, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of the Secretary

Type of Review: Extension.

Title of Collection: U.S. Department of Education Grant Performance Report Form (ED 524B)

OMB Control Number: 1894–0003.

Agency Form Number(s): Department of Education Form 524 B.

Frequency of Responses: Annually.

Affected Public: State, Local, or Tribal Government, State Educational Agencies or Local Educational Agencies.

Total Estimated Number of Annual Responses: 5,900.

Total Estimated Annual Burden Hours: 132,300.

Abstract: The ED 524B form and instructions are used in order for grantees to meet Department of Education (ED) deadline dates for submission of performance reports for ED discretionary grant programs. Recipients of multi-year discretionary grants must submit an annual performance report for each year funding has been approved in order to receive a continuation award. The annual performance report should demonstrate whether substantial progress has been made toward meeting

the approved goals and objectives of the project. ED program offices may also require recipients of "forward funded" grants that are awarded funds for their entire multi-year project up-front in a single grant award to submit the ED 524B on an annual basis. In addition, ED program offices may also require recipients to use the ED 524B to submit their final performance reports to demonstrate project success, impact and outcomes. In both the annual and final performance reports, grantees are required to provide data on established performance measures for the grant program (*e.g.,* Government Performance and Results Act measures) and on project performance measures that were included in the grantee's approved grant application. The ED 524B also contains a number of questions related to project financial data such as Federal and non-Federal expenditures and indirect cost information. Performance reporting requirements are found in 34 CFR 74.51, 75.118, 75.253, 75.590 and 80.40 of the Education Department General Administrative Regulations.

Copies of the information collection submission for OMB review may be accessed from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or from the Department's Web site at *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4421. When you access the information collection, click on "Download Attachments " to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2011–3388 Filed 2–14–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before March 17, 2011.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or e-mailed to *oira_submission@omb.eop.gov* with a cc: to *ICDocketMgr@ed.gov.* Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: February 10, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of Planning, Evaluation and Policy Development

Type of Review: New.

Title of Collection: Evaluation of the Carol M. White Physical Education Program.

OMB Control Number: Pending.

Agency Form Number(s): N/A.

Frequency of Responses: Twice for each collection (raw data and survey).

Affected Public: Not-for-profit institutions; State, Local, or Tribal Government, State Educational Agencies or Local Educational Agencies.

Total Estimated Number of Annual Responses: 77.

Total Estimated Annual Burden Hours: 154.

Abstract: To answer the evaluation questions put forth by U.S. Department of Education (ED) regarding program implementation, partnerships, data use, and student outcomes, the American Institutes for Research proposes a two-phase research design, drawing on survey data to be collected from administrators at Carol M. White Physical Education Program (PEP) projects and analyses of extant student outcome data pertinent to physical activity levels, fitness, and nutrition intake. Findings from this study will provide feedback to both ED and grantees with regard to the performance of the PEP, and will inform future improvements to the program.

Copies of the information collection submission for OMB review may be accessed from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or from the Department's Web site at *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4458. When you access the information collection, click on "Download Attachments " to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2011–3389 Filed 2–14–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2100–175]

California Department of Water Resources; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed

with the Commission and is available for public inspection:

a. Types of Application: Amendment to License.

b. Project No.: 2100–175.

c. Date Filed: January 12, 2011.

d. Applicant: California Department of Water Resources (DWR).

e. Name of Project: Feather River Hydroelectric Project.

f. Location: The project is located on the Feather River in Butte County near Oroville, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791a–825r.

h. Applicant Contact: Mr. Bill Cochran, Chief of DWR's License Coordination Branch, 1416 Ninth Street, P.O. Box 942836, Sacramento, California; 530–534–2376.

i. FERC Contact: Mr. Lorance Yates, 678–245–3084, *lorance.yates@ferc.gov*.

j. Deadline for filing comments, motions to intervene, and protests, is 30 days from the issuance date of this notice. All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp*. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be mailed to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments.

Please include the project number (P–2100–175) on any comments, motions, or recommendations filed.

k. *Description of Request:* The California Department of Water Resources, licensee for the Feather River Hydroelectric Project, has filed a request for authorization to temporarily close the Lime Saddle Campground. Due to low seasonal usage by the public, the licensee proposes to close the Lime Saddle Campground from January 1, 2011 to April 30, 2011 in order to perform maintenance at the site. The Lime Saddle Campground contains 44 individual sites and 6 group campsites. During this closure, the public will be directed to the licensee's other two campgrounds at the project. The Bidwell Canyon Campground contains 75 individual sites and the Loafer Creek Campground contains 137 individual sites and 6 group campsites.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling 202–502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov,* for TTY, call 202–502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) Bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the license surrender. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: February 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–3303 Filed 2–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP11–75–000]

Minnesota Energy Resources Corporation; Notice of Application

Take notice that on February 1, 2011, Minnesota Energy Resources Corporation (MERC), 2665 145th Street West, Rosemount, MN 55068, filed an abbreviated application pursuant to Section 7(f) of the Natural Gas Act for amendment to its service area determination issued in an order dated July 14, 2006, Docket No. CP06–370–000. MERC also requests: (i) a finding that MERC continues to qualify as a local distribution company (LDC) for purposes of section 311 of the Natural Gas Policy Act of 1978 (NGPA); and (ii) a waiver of the Commission's accounting and reporting requirements and other regulatory requirements ordinarily applicable to natural gas companies under the NGA and NGPA. The filing may also be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@gerc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

MERC requests to own facilities located in South Dakota. The request arises from a service agreement between MERC and NorthWestern Corporation doing business as NorthWestern Energy. MERC proposes to take service from NorthWestern Energy near the South Dakota/Minnesota border, and receives gas on the South Dakota side near Big Stone City. MERC will transport the gas,

on its own facilities, to Minnesota near Ortonville. MERC will own less than 100 feet of pipeline in South Dakota. MERC will serve no customers in South Dakota. The purpose of owning facilities in South Dakota is to bring gas to Minnesota to serve MERC's customers in Minnesota.

Any questions regarding this application should be directed to Mary Klyasheff, Integrys Energy Group, Inc., Legal Services Department, 130 East Randolph Drive, Chicago, Illinois 60601; phone number (312) 240–4470; or e-mail: *MPKyasheff@integrysgroup.com.*

Any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit original and 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

Motions to intervene, protests and comments may be filed electronically via the Internet in lieu of paper, see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: February 18, 2011.

Dated: February 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–3306 Filed 2–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2485–059]

First Light Hydro Generating Company; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Types of Application: Non-Project Use and Occupancy of Project Lands.

b. Project No.: 2485–059.

c. Date Filed: January 14, 2011.

d. Applicant: First Light Hydro Generating Company.

e. Name of Project: Northfield Mountain Pumped Storage Project.

f. Location: East side of the Connecticut River, Towns of Erving and Northfield, Franklin County, Massachusetts.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791a–825r.

h. Applicant Contact: Mr. John Howard, Plant Manager, Northfield Mountain Station, 99 Millers Falls Road, Northfield, MA 01360, (413) 659–4489, *John.Howard@gdfsueznacom.*

i. FERC Contact: Dr. Mark Ivy, (202) 502–6156, *Mark.Ivy@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests, is 30 days from the issuance date of this notice. All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be mailed to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments.

Please include the project number (P–2485–059) on any comments, motions, or recommendations filed.

k. *Description of Request:* First Light Hydro Generating Company proposes to add a solar array (encompassing approximately 10 acres of land) as a non-project use of project lands at the Northfield Pump Storage Project (P–2485–059). The applicant states that the proposed 2MW utility grade photovoltaic solar array will provide power to Northfield Mountain Visitor's Center. The solar array would be located between Millers Falls Road on the east and Central Vermont Railroad tracks (on the west) across from the entrance to the Northfield Mountain Visitor's Center.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208- 3676 or e-mail *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) Bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the license surrender. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an

issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: February 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–3304 Filed 2–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Baseline Filings

Enstor Grama Ridge Storage and Transportation, L.L.C.	Docket No. PR10–97–002.
EasTrans, LLC	Docket No. PR10–30–001.
DCP Guadalupe Pipeline, LLC	Docket No. PR10–31–002.
DCP Raptor Pipeline, LLC	Docket No. PR10–42–001.
Jackson Pipeline Company	Docket No. PR10–59–001.
Overland Trail Transmission, LLC	Docket No. PR10–23–001.
Pelico Pipeline, LLC	Docket No. PR10–41–001.
Enstor Katy Storage and Transportation, L.P.	Docket No. PR10–101–002. Not Consolidated.

Take notice that on February 3, 2011, February 4, 2011, February 7, 2011, and February 8, 2011, respectively, the applicants listed above submitted a revised baseline filing of their Statement of Operating Conditions for services provided under section 311 of the Natural Gas Policy Act of 1978 (''NGPA'').

Any person desiring to participate in this rate proceeding must file a motion to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 15, 2011.

Dated: February 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–3310 Filed 2–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR11–84–001]

DCP Guadalupe Pipeline, LLC; Notice of Compliance Filing

Take notice that on February 4, 2011, DCP Guadalupe Pipeline, LLC (Guadalupe) filed a revised Statement of Operating Conditions for Transportation Services (SOC) reflecting minor changes to the eTariff information on the cover page originally filed in Docket No. PR10–55–000 on July 6, 2010.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 15, 2011.

Dated: February 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–3301 Filed 2–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR10–65–001]

EasTrans, LLC; Notice of Filing

Take notice that on February 4, 2011, EasTrans, LLC (EasTrans) filed a revised Statement of Operating Conditions (SOC) reflecting minor changes to the eTariff information on the cover page originally filed on July 22, 2010.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 15, 2011.

Dated: February 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–3309 Filed 2–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF11–4–000]

Western Area Power Administration; Notice of Filing

Take notice that on February 3, 2011, the Western Area Power Administration, pursuant to Order No. 714,[1] and the Federal Energy Regulatory Commission's (Commission) Order Establishing Baseline Filing Schedule Starting April 1, 2010, issued on March 19, 2010, 130 FERC ¶ 61,228 (March 19 Order), resubmitted a new Baseline eTariff version of its non-jurisdictional Open Access Transmission Tariff, to be effective September 30, 2010.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on February 17, 2011.

[1] *Electronic Tariff Filings,* Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).

Dated: February 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–3302 Filed 2–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13015–001]

Town of Edgartown; Notice of Intent To File License Application, Filing of Draft Application, Request for Waivers of Integrated Licensing Process Regulations Necessary for Expedited Processing of a Hydrokinetic Pilot Project License Application, and Soliciting Comments

a. *Type of Filing:* Notice of Intent to File a License Application for an Original License for a Hydrokinetic Pilot Project.

b. *Project No.:* 13015–001.

c. *Date Filed:* February 1, 2011.

d. *Submitted By:* Town of Edgartown (Edgartown).

e. *Name of Project:* Muskeget Channel Tidal Energy Project.[1]

f. *Location:* In Muskeget Channel, between the islands of Martha's Vineyard and Nantucket, Dukes County, Massachusetts.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Applicant Contact:* Ms. Pamela Dolby, Town Administrator, Town of Edgartown, 70 Main Street, Edgartown, MA 02539; (508) 627–6180.

i. *FERC Contact:* Michael Watts (202) 502–6123.

j. *Edgartown has filed with the Commission:* (1) A notice of intent (NOI) to file an application for an original license for a hydrokinetic pilot project and a draft license application with monitoring plans; (2) a request for waivers of the integrated licensing process regulations necessary for expedited processing of a hydrokinetic pilot project license application; (3) a proposed process plan and schedule; (4) a request to be designated as the non-federal representative for section 7 of the Endangered Species Act (ESA) consultation; and (5) a request to be designated as the non-Federal representative for section 106 consultation under the National Historic Preservation Act (collectively the pre-filing materials).

[1] The project was named the Nantucket Tidal Energy Plant Water Power Project in the preliminary permit for Project No. 13015 issued in March 31, 2008.

k. With this notice, we are soliciting comments on the pre-filing materials listed in paragraph j above, including the draft license application and monitoring plans. All comments should be sent to the address above in paragraph h. In addition, all comments may be filed electronically via the Internet. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Any individual or entity interested in submitting comments on the pre-filing materials must do so by March 17, 2011.

l. With this notice, we are approving Edgartown's request to be designated as the non-Federal representative for section 7 of the ESA and its request to initiate consultation under section 106 of the National Historic Preservation Act; and recommending that it begin informal consultation with: (a) The U.S. Fish and Wildlife Service and the National Marine Fisheries Service as required by section 7 of ESA; and (b) the Massachusetts State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

m. This notice does not constitute the Commission's approval of Edgartown's request to use the Pilot Project Licensing Procedures. Upon its review of the project's overall characteristics relative to the pilot project criteria, the draft license application contents, and any comments filed, the Commission will determine whether there is adequate information to conclude the pre-filing process.

n. The proposed Muskeget Channel Tidal Energy Project would consist of: (1) 13 commercially operated OCGenTM horizontal hydrokinetic cross flow turbine generation units with a total installed capacity of 5 megawatts, and one experimental turbine unit that would be used to test various tidal energy technologies; (2) a mooring and anchoring system attached to each unit consisting of four mooring lines, an anchor, and a clump weight; (3) two alternative submarine cable routes consisting of a either a 3.5-mile-long, or a 5-mile-long submarine cable with two 13.8-kilovolt (kv) lines and a 4.0-kv transmission line connecting the turbine generation units to an onshore substation located either in the Chappaquiddick or Katama sections of Edgartown; (4) two alternative onshore transmission line routes consisting of a 34.5 kv transmission line connecting either the Chappaquiddick or Katama onshore station to an existing distribution line in Edargatown; and (5) appurtenant facilities. The project would have an average annual generation of 10.95 gigawatt-hours.

o. A copy of the draft license application and all pre-filing materials are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the "eLibrary" link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659.

p. *Pre-filing process schedule.* The pre-filing process will be conducted pursuant to the following tentative schedule. Revisions to the schedule below may be made based on staff's review of the draft application and any comments received.

Milestone	Date
Comments on pre-filing materials due	March 17, 2011.
Issuance of meeting notice (if needed)	April 1, 2011.
Public meeting/technical conference (if needed)	May 1, 2011.
Issuance of notice concluding pre-filing process and ILP waiver request determination	April 16, 2011 (if no meeting is needed). May 16, 2011 (if meeting is needed).

q. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: February 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–3305 Filed 2–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting Notice

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: February 17, 2011, 10 a.m.

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: OPEN.

MATTERS TO BE CONSIDERED: Agenda.

Note: Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kimberly D. Bose, Secretary, Telephone (202) 502–8400.

For a recorded message listing items struck from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed on line at the Commission's Web site at *http://www.ferc.gov* using the eLibrary link, or may be examined in the Commission's Public Reference Room.

967TH—Meeting

REGULAR MEETING

February 17, 2011, 10 a.m.

Item No.	Docket No.	Company
	Administrative	
A–1	AD02–1–000	Agency Business Matters.
A–2	AD02–7–000	Customer Matters, Reliability, Security and Market Operations.
	Electric	
E–1	ER03–563–066	Devon Power LLC.
E–2	EL10–71–000	Puget Sound Energy, Inc.
E–3	RM11–9–000	Locational Exchanges of Wholesale Electric Power.
E–4	RM11–7–000	Frequency Regulation Compensation in the Organized Wholesale Power Markets.
	AD10–11–000	
E–5	RM10–17–000	Demand Response Compensation in Organized Wholesale Energy Markets.
E–6	RM10–13–001	Credit Reforms in Organized Wholesale Electric Markets.
E–7	RM08–13–001	Transmission Relay Loadability Reliability Standard.
E–8	RM08–19–004	Mandatory Reliability Standards for the Calculation of Available Transfer Capability, Capacity Benefit Margins, Transmission Reliability Margins, Total Transfer Capability, and Existing Transmission Commitments and Mandatory Reliability Standards for the Bulk-Power System.
E–9	ER11–2411–000	Southern California Edison Company.
	ER11–2572–000	California Independent System Operator Corporation.
E–10	ER11–2455–000	Southern California Edison Company.
	ER11–2451–000	California Independent System Operator Corporation.
E–11	ER05–1056–005	Chehalis Power Generating, L.P.
E–12	ER10–2869–000	Midwest Independent Transmission System Operator, Inc.
E–13	ER11–2427–000	ISO New England, Inc.
E–14	EL10–62–000	Alta Wind I, LLC, Alta Wind II, LLC, Alta Wind III, LLC, Alta Wind IV, LLC, Alta Wind V, LLC, Alta Wind VI, LLC, Alta Wind VII, LLC, Alta Wind VIII, LLC, Alta Windpower Development, LLC, TGP Development Company, LLC.
	Gas	
G–1	RP08–306–000	Portland Natural Gas Transmission System.
G–2	IS08–390–002	SFPP, L.P.
	Hydro	
H–1	RM11–6–000	Annual Charges for Use of Government Lands.
H–2	P–2210–209	Appalachian Power Company.
H–3	P–2210–206	Appalachian Power Company.
H–4	P–12532–003	Pine Creek Mine, LLC.
	P–13317–001	Bishop Paiute Tribe.
	P–13689–001	KC LLC.
	Certificates	
C–1	CP10–485–000	Tennessee Gas Pipeline Company.

Dated: February 10, 2011.

Kimberly D. Bose,

Secretary.

A free Webcast of this event is available through *http://www.ferc.gov*. Anyone with Internet access who desires to view this event can do so by navigating to *http://www.ferc.gov's* Calendar of Events and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical support for the free webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *http://www.CapitolConnection.org* or contact Danelle Springer or David Reininger at 703–993–3100.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

[FR Doc. 2011–3459 Filed 2–11–11; 11:15 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13951–000]

Bear Creek Hydro Associates, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On December 22, 2010, the Bear Creek Hydro Associates, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the

feasibility of the Bear Creek Hydroelectric Project located on Bear Creek, near Concrete, Washington. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of upper and lower developments. The applicant proposes to rehabilitate and refurbish facilities from an existing project that has been decommissioned for about 30 years.

The upper development includes the following existing facilities: (1) A 100-foot-long diversion structure with a 30-foot-long, 6-foot-high ungated overflow spillway section at an elevation of 987 feet msl; (2) a 400-foot-long, 36-inch-diameter steel penstock; (3) an one-acre reservoir with 2-acre-feet of storage; (4) a 40-foot by 16-foot concrete powerhouse; (5) a 350-foot-long, 12.5 kilovolt (kV), 3-phased transmission line; and (6) 1,850 feet of access roads. The existing turbine would be used, but one new, 250-kilowatt (kW) generator would be installed. The estimated annual power generation for the upper development is 1.2 gigawatt-hours (GWh).

The lower development includes the following existing facilities: (1) A 235-foot-long diversion structure with an 82-foot-long, 24-foot-high ungated overflow spillway section at an elevation of 912 feet msl; (2) an 1.7-acre reservoir; and (3) a 28-foot by 82-foot concrete powerhouse with three existing 200 kW Pelton turbines, totaling 600 kW. The lower development would include the following new facilities: (1) 2,800 foot-long, 36-inch-diameter above-ground steel penstock; and (2) a 3.5-mile-long, 12.5-kV transmission line. The estimated annual power generation for the lower development is 11.7 GWh.

Both developments would have a total installed capacity of 850 kW and generate about 12.9 GWh of energy annually.

Applicant Contact: Thomas M. McMaster, Bear Creek Hydro Associates, LLC, 358 Shallow Shore Road, Bellingham, Washington 98229; phone: (360) 647–2196.

FERC Contact: Patrick Murphy; phone: (202) 502–8755.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13951–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: February 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–3308 Filed 2–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13803–000]

Bison Peak Pumped Storage, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On June 29, 2010, the Bison Peak Pumped Storage, LLC., filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Bison Peak Pumped Storage Project (Bison Peak Project or project) to be located in the Tehachapi Mountains south of Tehachapi, Kern County, California. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The applicant has proposed two alternatives for the placement of a lower reservoir, termed "South" and "Tejon." The South alternative proposal would consist of the following: (1) An upper dam with a height of 50 feet, a crest length of 7,128 feet, and with a reservoir having a total storage capacity of 5,500 acre-feet at a normal maximum operating elevation of 7,860 feet mean sea level (msl); (2) a lower dam with a height of 310 feet, a crest length of 1,160 feet, and with a reservoir having a total storage capacity of 5,805 acre-feet at a normal maximum operating elevation of 5,100 feet msl; (3) a 9,060-foot-long underground conduit; (4) a powerhouse containing four 250 megawatt (MW) reversible pump turbines and located 900 feet below ground level, approximately midway between the upper and lower reservoirs; (5) a powerhouse access tunnel of approximately 2,090 feet; and a (6) 3.2- or 5.3-mile-long, 345-kilovolt (kV) transmission line to either the existing Cottonwind or Windhub substations, respectively.

The Tejon alternative proposal would consist of the following: (1) An upper dam with a height of 50 feet, a crest length of 7,128 feet, and with a reservoir having a total storage capacity of 5,500 acre-feet at a normal maximum operating elevation of 7,860 feet msl; (2) a lower dam with a height of 260 feet, a crest length of 1,480 feet, and with a reservoir having a total storage capacity of 6,355 acre-feet at a normal maximum operating elevation of 5,250 feet msl; (3) a 10,350-foot-long underground conduit; (4) a powerhouse containing four 250 MW reversible pump turbines and located 900 feet below ground level, approximately midway between the upper and lower reservoirs; and a (5) 14.2- or 14.8-mile-long transmission line (including both new construction of a 345-kV line and upgrades to existing transmission lines) to either the existing Cottonwind or Windhub substations, respectively. The estimated annual generation of the Bison Peak Pumped Storage Project would be 3,066 gigawatt-hours.

Applicant Contact: Bison Peak Pumped Storage, LLC., 9795 Cabrini Dr., Ste. 206, Burbank, CA 91504; phone: (818) 767–5554.

FERC Contact: Matt Buhyoff; phone: (202) 502–6824.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13803–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: February 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–3307 Filed 2–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Desert Southwest Customer Service Region-Rate Order No. WAPA–151

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed rates.

SUMMARY: The Western Area Power Administration (Western) is proposing to update its formula rates for the WALC Balancing Authority Ancillary Services as well as the formula rates for NITS on the P–DP and Intertie projects. Current formula rates, under Rate Schedules DSW–SD2, DSW–RS2, DSW–FR2, DSW–SPR2, DSW–SUR2, DSW–EI2 and PD–NTS2, and INT–NTS2 are set to expire June 30, 2011. Western is also proposing to add a new rate schedule, Rate Schedule DSW–GI1, for Generator Imbalance (GI) Service. Western is proposing these rates to meet evolving and expanding transmission system and ancillary services requirements. Western has prepared a brochure that provides detailed information on the proposed rates to all interested parties. The proposed rates, under Rate Schedules-DSW–SD3, DSW–RS3, DSW–FR3, DSW–SPR3, DSW–SUR3, DSW–EI3, DSW–GI1, PD–NTS3, and INT–NTS3 would go into effect on October 1, 2011, and would remain in effect through September 30, 2016, or until superseded.[1] The new rate schedule for GI Service, under Rate Schedule DSW–GI1, would go into effect and coincide with the other ancillary service rates in this rate order. Publication of this **Federal Register** notice begins the formal process for the proposed formula rates.

DATES: The consultation and comment period begins today and will end May 16, 2011. Western will present a detailed explanation of the proposed formula rates at a public information forum. The public information forum date is March 10, 2011, 1 p.m. to 3 p.m. MST, Phoenix, Arizona. Western will accept oral and written comments at a public comment forum. The public comment forum date is April 6, 2011, 1 p.m. to 3 p.m. MST, Phoenix, Arizona. Western will accept written comments any time during the consultation and comment period.

ADDRESSES: Written comments should be sent to Mr. Darrick Moe, Regional Manager, Desert Southwest Customer Service Region, Western Area Power Administration, 615 South 43rd Avenue, Phoenix, AZ 85009, e-mail *MOE@wapa.gov.* Western will post information, including written comments and the rate brochure to its Web site at *http://www.wapa.gov/dsw/pwrmkt/ANCSRV/ANCSRV.htm.* Western must receive written comments by the end of the consultation and comment period to ensure they are considered in Western's decision process. The public information forum and public comment forum location is the Desert Southwest Customer Service Regional Office, 615 South 43rd Avenue, Phoenix, Arizona.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Murray, Rates Manager, Desert Southwest Customer Service Region, Western Area Power Administration, 615 South 43rd Avenue, Phoenix, AZ 85009, telephone (602) 605–2442, e-mail j*murray@wapa.gov.*

SUPPLEMENTARY INFORMATION: The Deputy Secretary of Energy approved the current Rate Schedules under Rate Order WAPA–No. 127 for ancillary services rates through June 30, 2011.[2] The current rate schedules contain formula-based rates that are recalculated annually. The proposed rates continue the formula-based approach and will be recalculated annually using updated financial and load information. The proposed formula-based rates would, if adopted, go into effect October 1, 2011, and remain in effect through September 30, 2016. Rates effective October 1, 2011, are preliminary and are subject to change upon publication of final formula rates. NITS would remain project-specific as provided under Rate Order No. WAPA–127 with no changes proposed to the existing formula rates.

Proposed Formula Rate for Scheduling, System Control and Dispatch Service

The proposed formula for Scheduling, System Control and Dispatch (SSCD) Service, Rate Schedule DSW–SD3, is as follows:

$$\text{Cost per Schedule} = \frac{\text{Annual Cost of Scheduling Personnel and Related Costs}}{\text{Number of Schedules per Year}}$$

[1] Since the current rates will expire prior to the anticipated completion of this ratemaking process, those rates are being extended for a two year period in WAPA Order 152.

[2] FERC confirmed and approved Rate Order No. WAPA–127 on November 21, 2006, in Docket No., EF06–5191–000 *See United States Department of Energy, Western Area Power Administration,* 117 FERC ¶ 62,172.

The numerator (revenue requirement) would primarily capture costs for scheduling and will not include costs for system control and dispatch. Those costs would be captured in other rates. This proposal would not change the current methodology. The denominator would be the total for the year of daily tags which result in a schedule. This is a proposed change from the current methodology in that WALC currently counts tags at the time of creation and any subsequent modifications where WALC is listed as a transmission provider and as a balancing authority. Western is proposing the change because it believes that counting tags that result in a schedule, rather than all tags, is a more appropriate measure of the cost of providing the service and will result in minimal change to the rate.

Western is also proposing a change in the implementation of this rate. As the SSCD Service is one that the transmission providers must obtain from the balancing authority, Western would allocate the cost of each tag equally among all transmission providers listed on the tag that are inside the WALC Balancing Authority. Western would charge all non-Federal transmission providers for their allocated costs. Any Federal transmission segment would be exempt from billing, as costs for these schedules are included in the transmission service. Currently, the last transmission provider inside WALC is charged for the entire cost of the tag unless one of the transmission segments is Federal transmission. In that case, no charge is assessed. See the following table for the comparison of rates:

Class of service	Existing rate schedule DSW–SD2 Effective date 07/01/2006	Proposed rate schedule DSW–SD3I Effective date 10/01/2011
Scheduling, System Control and Dispatch Service	$26.85 ..... Maximum cost per Tag	$26.32. Maximum cost per Schedule.

Proposed Formula Rate for Reactive Supply and Voltage Control From Generation Sources (VAR) Service

No changes are proposed for the proposed formula for calculating the revenue requirement for Reactive Supply and Voltage Control from Generation Sources (VAR) service, Rate Schedule DSW–RS3:

$$\text{VAR Support Rate} = \frac{\text{TARRG} \times \% \text{ of Resource}}{\text{Load Requiring VAR Support}}, \text{ where}$$

TARRG = Total Annual Revenue Requirement for Generation

% of Resource = Percentage of Resource Capacity Used for VAR Support

The numerator would continue to capture the percentage of annual generation costs which are used for this service. That percentage is based on the nameplate power factor for the generating units. The annual generation costs would continue to be multiplied by the complement of the power factor. For example, if the power factor is 98 percent, the numerator would include 2 percent of the annual plant costs. This proposal would not change the current methodology. The denominator would continue to be a measure of the loads requiring this service. Western uses long-term firm transmission reservation data for both Colorado River Storage Project (CRSP) and P–DP, and subtracts for those customers that provide VAR to the balancing authority. This process represents no change for WALC. See the following table for the comparison of rates:

Class of service	Existing rate schedule DSW–RS2 Effective date 07/01/2006	Proposed rate schedule DSW–RS3 Effective date 10/01/2011
Reactive Supply and Voltage Control Service	$0.058/kW-month	$0.058/kW-month.

Proposed Formula Rate for Regulation and Frequency Response Service

The proposed formula for Regulation and Frequency Response Service would have four (4) components:

(1) Load-based Assessment.

$$\text{Regulation Rate} = \frac{\text{Total Annual Revenue Requirement for Regulation}}{\text{Load in the Balancing Authority Requiring Regulation Plus the Installed Nameplate Capacity of Intermittent Resources Serving Load in the BA}}$$

The existing rate for regulation service is an energy-based rate. Under DSW–RS3, Western is proposing a minor change in that the regulation charge will be capacity (load) based. The resulting change would better reflect the service being provided. The rate would apply to all entities' auxiliary load (total less Federal entitlements) plus the nameplate capacity of intermittent resources serving load in the WALC Balancing Authority. Restricting regulation service to intermittent resources serving load inside WALC would be a change from the current methodology. Western intends to retain the existing requirement for providing regulation service for non-conforming loads. A non-conforming load is defined as a single plant or site with a regulation capacity requirement of 5 megawatts (MW) or greater on a recurring basis and whose capacity requirement is equal to 10 percent or greater of its average load. Regulation service for non-conforming loads, as determined by Western, would continue to be delineated in a service agreement and charged an amount which includes the cost to procure the service and the additional amount required to monitor and supply the service.

The revenue requirement would include the following components: Plant, operation and maintenance costs, purchases of a regulation product, purchases of power in support of the units' ability to regulate, purchases of transmission for regulating units that are trapped geographically inside another balancing authority, and purchases of transmission required to relocate energy due to regulation/load following.

Annual costs for regulation in WALC would be determined by multiplying the forecast capacity rate of the Boulder Canyon Project by the amount of capacity required for regulation in WALC. The revenue requirement for regulation would also include the cost of regulating capacity set aside for WALC by the CRSP. The capacity required for regulation would be subject to re-evaluation every year.

(2) *Exporting Intermittent Resource Requirement.* An entity that exports the output from an intermittent resource to another balancing authority would be required under this proposal to dynamically meter or dynamically schedule that resource out of WALC to another balancing authority. An intermittent resource is a generator that is not able to dispatch and cannot store its fuel source, and therefore, cannot respond to changes in system demand or to transmission security constraints.

(3) *Self-Provision Assessment.* WALC's existing Rate Schedule for regulation service does not contain a self-provision assessment. Western allows entities with automatic or manual generation control to self-provide regulation service for all or a portion of their loads. Typically, entities with generation control are known as Sub-Balancing Authorities (SBA) and should meet all of the following criteria: (a) Have a well-defined boundary, with WALC-approved revenue-quality metering, accurate as defined by NERC, to include MW flow data availability at 6-second or smaller intervals; (b) have Automatic Generation Control (AGC) capability; and (c) demonstrate Regulation Service capability. Western proposes that self-provision be measured by use of the entity's 1-minute average Area Control Error (ACE). The assessment would be calculated every hour and the value of ACE would be used to calculate the Regulation Service charges as follows:

a. If the entity's 1-minute average ACE is ≤ 0.5 percent of the entity's hourly average load, no Regulation Service charges would be assessed by WALC.

b. If the entity's 1-minute average ACE is ≥ 1.5 percent of the entity's hourly average load, WALC would assess Regulation Service charges to the entity's entire load, using the Load-based rate.

c. If the entity's 1-minute average ACE is > 0.5 percent of the entity's hourly average load, but < 1.5 percent of the entity's hourly average load, WALC would assess Regulation Service charges based on linear interpolation of zero charge and full charge, using the Load-based rate.

(4) *Other Self- or Third-party Supply.* Western may allow an entity to supply some or all of its required regulation or contract with a third party to do so, even without well-defined boundary metering. WALC will evaluate the entity's metering, telecommunications and regulating resource, as well as the required level of regulation, and determine whether the entity qualifies to Self-supply under this provision. This is a new provision under the proposed formula rate.

See the following table for the comparison of rates:

Class of service	Existing rate schedule DSW–FR2 Effective date 07/01/2006	Proposed rate schedule DSW–FR3 Effective date 10/01/2011
Regulation and Frequency Response Service	0.2481 mills/kWh	$0.2255/mWh.

Proposed Rate for Energy Imbalance Service

Western proposes to implement a penalty and bandwidth structure with 3 deviation bands very similar to FERC Order 890 guidelines with adjustments for WALC operating conditions. WALC would continue to treat peak-hour and non-peak hour imbalances differently. The peak-hour structure would be very similar to the FERC model. For off-peak hour imbalances, WALC is proposing to keep the existing imbalance and penalty structure.

(1) On-Peak Hours ± 0 percent to 1.5 percent of metered load (0 to 4 MW minimum) with no penalty within bandwidth;

(2) On-Peak Hours ± 1.5 percent to 7.5 percent of metered load (4 to 10 MW minimum) with 110 percent return for under-deliveries and 90 percent return for over-deliveries.

(3) On-Peak Hours > 7.5 percent of metered load (> 10 MW minimum) with

125 percent return for under-deliveries and 75 percent for over-deliveries.

Because of WALC Balancing Authority operating constraints in the Off-peak hours, WALC proposes to continue using a 2-bandwidth structure in those hours but with an expanded bandwidth for over-delivery.

(1) Off-Peak Hours −3 percent to ≥7.5 percent of metered load (2 MW Minimum for over-deliveries; 5 MW minimum for under-deliveries) with 110 percent return for under-delivery, 60 percent return for over-delivery.

Financial settlements for imbalances will be calculated using the Dow Jones Palo Verde average monthly index or an index identified on the OASIS at the beginning of each fiscal year. While the pro-forma model states a preference for financial settlement of imbalances, settlement in energy is a practice that is long-accepted and preferred by many entities throughout WALC. At Western's discretion, settlement in energy may be accepted in lieu of financial settlement.

See the following table comparing the existing with the proposed Energy Imbalance structure:

Energy imbalance service Class of service	Existing rate schedule DSW–EI2 Effective date 07/01/2006	Proposed rate schedule DSW–EI3 ffective date 10/01/2011
On-Peak Hours	± 0 to 1.5%; Min: 0 to 5 MW	± 0% to 1.5%; Min: 0 to 4 MW.
Energy within Bandwidth	100% return	100% return.
On-Peak Hours	N/A	± 1.5% to 7.5%; Min: 4 to 10 MW.
Under Deliveries		110% return.
Over Deliveries		90% return.
On-Peak Hours	N/A	>7.5% Min: >10 MW.
Under Deliveries		125% return.
Over Deliveries		75% return.
Off-Peak Hours	−3% to +1.5%	−3% to ≥ 7.5%.
	Min: 2 MW Over Deliveries	Min: 2 MW Over Deliveries.
	Min: 5 MW Unver Deliveries	Min: 5 MW Unver Deliveries.
Energy within Bandwidth	100% return	100% return.
Energy outside Bandwidth		
Under Deliveries	110% return	110% return.
Over Deliveries	60% return	60% return.

Proposed Rate for Generator Imbalance Service

Western is proposing a new Generator Imbalance Service Formula Rate, Rate Schedule DSW–GI1. This service will be provided to the following customers:

(1) Multi-party generators whose output is shared by several entities. If the operator of the generator prefers, the generator's output will be allocated among the unit participants and included in the Energy Imbalance calculations for those participants.

(2) Intermittent resources serving load within WALC.

A solely-owned non-intermittent resource will be included in the entity's Energy Imbalance calculation.

Western has marketed the maximum amount of capacity from its projects, leaving little flexibility for additional balancing authority services. Consequently, Western will not regulate for the difference between the output of an intermittent generator located within WALC and a delivery schedule from that generator serving load located outside WALC. Intermittent generators serving load outside WALC will be required to dynamically meter or dynamically schedule their generation to another Balancing Authority. An intermittent resource is a generator that is not dispatchable and cannot store its fuel source and, therefore, cannot respond to changes in system demand or to transmission security constraints.

The formula rate for Generator Imbalance Service will be identical to that for Energy Imbalance Service, with the following exceptions:

(1) Bandwidths will be calculated as a percentage of metered generation, since there is no load.

(2) Intermittent resources are exempt from the outer bandwidth. All deviations greater than 1.5 percent of metered generation in the on-peak hours will be subject only to a 10 percent penalty.

In any hour, Western may charge a customer a penalty for either Generator Imbalance under Rate Schedule DSW–GI1 or Energy Imbalance under Rate Schedule DSW–EI3, but not both, unless the imbalances aggravate rather than offset each other.

See the following table for the proposed Generator Imbalance structure:

Generator imbalance service Class of service	Proposed rate schedule DSW–GI1 Effective date 10/01/2011
On-Peak Hours	± 0% to 1.5%; Min: 0 to 4 MW.
Energy within Bandwidth	100% return.
On-Peak Hours	± 1.5% to 7.5%; Min: 4 to 10 MW.
Under Deliveries	110% return.
Over Deliveries	90% return.
On-Peak Hours	>7.5%, Min: >10 MW.
Under Deliveries	125% return.
Over Deliveries	75% return.
Off-Peak Hours	−3% to ≥ 7.5%.
	Min: 2 MW Over Deliveries.

Generator imbalance service Class of service	Proposed rate schedule DSW–GI1 Effective date 10/01/2011
Energy within Bandwidth	Min: 5 MW Under Deliveries. 100% return.
Energy outside Bandwidth	
Under Deliveries	100% return.
Over Deliveries	60% return.

Proposed Formula Rates for Operating Reserves Service—Spinning and Supplemental

Western's WALC Balancing Authority would continue to offer these services only on a pass-through basis. This proposal would not change the current methodology for the WALC Balancing Authority. See the following table comparing the existing with the proposed Operating Reserves structure:

Class of service	Existing rate schedule DSW–SPR2 DSW–SUR2 Effective date 07/01/2006	Proposed rate schedules DSW–SPR3 DSW–SUR3 Effective date 10/01/2011
Operating Reserve—Spinning Reserve Service	None available on long-term basis; market price, if available, on short term basis, or on request. Western will procure at cost plus 10% administrative charge.	No change.
Operating Reserve—Supplemental Reserve Service	None available on long-term basis; market price, if available, on short term basis, or on request. Western will procure at cost plus 10% administrative charge.	No change.

Legal Authority

Because the proposed rates constitute a major rate adjustment as defined by 10 CFR part 903, Western will hold both a public information forum and a public comment forum. After review of public comments, Western will take further action on the Proposed Rates consistent with 10 CFR part 903.

Western is proposing ancillary service rates for the Desert Southwest Customer Service Region in accordance with section 302 of the Department of Energy (DOE) Organization Act (42 U.S.C. 7152). This section transferred to and vested in the Secretary of Energy, the power marketing functions of the Secretary of the Department of Interior and the Bureau of Reclamation under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); and section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s); and other acts that specifically apply to the projects involved.

By Delegation Order No. 00–037.00, effective December 6, 2001, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the FERC. Existing DOE procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985 (50 FR 37835).

After review of public comments, and possible amendments or adjustments, Western will recommend the Deputy Secretary of Energy approve the proposed rates on an interim basis.

Availability of Information

All brochures, studies, comments, letters, memorandums, or other documents that Western initiates or uses to develop the proposed rates are available for inspection and copying at the Desert Southwest Customer Service Regional Office, located at 615 South 43rd Avenue, Phoenix, Arizona. Many of these documents and supporting information are also available on its Web site located at *http://www.wapa.gov/dsw/pwrmkt/ANCSRV/ANCSRV.htm.*

Ratemaking Procedure Requirements

Environmental Compliance

In compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347), Council on Environmental Quality Regulations (40 CFR parts 1500–1508), and DOE NEPA Regulations (10 CFR part 1021), Western is in the process of determining whether an environmental assessment or an environmental impact statement should be prepared or if this action can be categorically excluded from those requirements.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866 accordingly, no clearance of this notice by the Office of Management and Budget is required.

Dated: February 3, 2011.

Timothy J. Meeks,

Administrator.

[FR Doc. 2011–3361 Filed 2–14–11; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9266–8]

Notice of Public Hearing and Extension of Public Comment Period of Draft National Pollutant Discharge Elimination System (NPDES) General Permits for Small Municipal Separate Storm Sewer Systems (MS4)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearing and extension of public comment period of draft NPDES general permits.

SUMMARY: The Director of the Office of Ecosystem Protection, Environmental Protection Agency-Region 1 (EPA), issued a Notice of Availability of Draft NPDES general permits for discharges from small MS4s to certain waters of the Commonwealth of Massachusetts on November 4, 2010. A subsequent notice of a public hearing was published on November 29, 2011. Due to inclement weather, the public meeting and hearing for the Draft Massachusetts Interstate, Merrimack and South Coastal Small MS4 General Permit in Leominster, MA on January 12, 2011 were cancelled. EPA has rescheduled the hearing and extended the comment permit of the draft permits.

Information on the draft permits, appendices and fact sheet is available at: *http://www.epa.gov/ne/npdes/stormwater/mimsc_sms4.html.*

DATES: The public comment period is now from the November 4, 2010 to March 11, 2011. Interested persons may submit comments on the draft general permit as part of the administrative record to the EPA–Region 1, at the address given below, no later than midnight March 11, 2011. The general permit shall be effective on the date specified in the **Federal Register** publication of the Notice of Availability of the final general permit. The final general permit will expire five years from the effective date.

ADDRESSES: Submit comments by one of the following methods:

- *E-mail: Renahan.Kate@epa.gov.*
- *Mail:* Kate Renahan, US EPA–Region 1, Office of the Regional Administrator, 5 Post Office Square—Suite 100, Mail Code—ORA01–1, Boston, MA 02109–3912.

No facsimiles (faxes) will be accepted.

The draft permit is based on an administrative record available for public review at EPA–Region 1, Office of Ecosystem Protection, 5 Post Office Square—Suite 100, Boston, Massachusetts 02109–3912. The following **SUPPLEMENTARY INFORMATION** section sets forth principal facts and the significant factual, legal, and policy questions considered in the development of the draft permit. A reasonable fee may be charged for copying requests.

Public Meeting Information: EPA–Region 1 will hold a public meeting to provide information about the draft general permit and its requirements. This public meeting will include a brief presentation on the draft general permits and a brief question and answer session. Written, but not oral, comments for the official draft permit record will be accepted at the public meeting. A Public meeting will be held at the following time and locations:

Wednesday—March 9, 2011

Leominster Public Library Community Room, 30 West Street, Leominster, MA 01453, 9:30 a.m.–10:30 a.m.

Public Hearing Information: Following the March 9, 2011 public meeting, a public hearing will be conducted in accordance with 40 CFR 124.12 and will provide interested parties with the opportunity to provide written and/or oral comments for the official draft permit record. The public hearing will be held at the following time and location:

Wednesday—March 9, 2011:

Leominster Public Library Community Room, 30 West Street, Leominster, MA 01453, 11 a.m .–2 p.m.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the draft permit may be obtained between the hours of 9 a.m. and 5 p.m. Monday through Friday excluding holidays from: Kate Renahan, Office of the Regional Administrator, Environmental Protection Agency, 5 Post Office Square—Suite 100, Mail Code: ORA01–1, Boston, MA 02109–3912; telephone: 617–918–1491; e-mail: *Renahan.Kate@epa.gov.*

SUPPLEMENTARY INFORMATION: Information about the proposed permits including background of the permit and summary of permit conditions was previously published on the November 4, 2010 (75 FR 67960–67962).

Dated: February 7, 2011.

H. Curtis Spalding,

Regional Administrator, Region 1.

[FR Doc. 2011–3380 Filed 2–14–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2007–1145; FRL–9266–9]

Release of Final Document Related to the Review of the Secondary National Ambient Air Quality Standards for Oxides of Nitrogen and Sulfur

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Office of Air Quality Planning and Standards (OAQPS) of EPA is announcing the availability of a document titled, *Policy Assessment for the Review of the Secondary National Ambient Air Quality Standards for Oxides of Nitrogen and Sulfur (Policy Assessment).* The Policy Assessment contains staff analyses of the scientific bases for alternative policy options for consideration by the Agency prior to rulemaking.

DATES: This Policy Assessment was released to the public via the internet on February 4, 2011.

ADDRESSES: The document will be available primarily via the Internet at the following Web site: *http://www.epa.gov/ttn/naaqs/standards/no2so2sec/cr_pa.html.*

FOR FURTHER INFORMATION CONTACT: For questions related to this document, please contact Dr. Richard Scheffe, Office of Air Quality Planning and Standards (Mail code C304–02), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; e-mail: *scheffe.rich@epa.gov* telephone: 919–541–4650; fax: 919–541–2357.

SUPPLEMENTARY INFORMATION:

Under section 108(a) of the Clean Air Act (CAA), the Administrator identifies and lists certain pollutants which "cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare." The EPA then issues air quality criteria for these listed pollutants, which are commonly referred to as "criteria pollutants." The air quality criteria are to "accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of [a] pollutant in the ambient air, in varying quantities." Under section 109 of the CAA, EPA establishes primary (health-based) and secondary (welfare-based) national ambient air quality standards (NAAQS) for pollutants for which air quality criteria are issued. Section 109(d) of the CAA requires periodic review and, if appropriate, revision of existing air quality criteria. The revised air quality criteria reflect advances in scientific knowledge on the effects of the pollutant on public health or welfare. The EPA is also required to periodically review and revise the NAAQS, if appropriate, based on the revised criteria.

Presently, EPA is reviewing the secondary NAAQS for oxides of nitrogen and sulfur.[1] The document

[1] The EPA's initial overall plan for this review was presented in the *Integrated Review Plan for the National Ambient Air Quality Standards for Nitrogen Dioxide and Sulfur Dioxide* (EPA–452/R–08–006, December 2007). Documents related to the current review of the secondary NAAQS for oxides

Continued

announced today, *Policy Assessment for the Review of the Secondary National Ambient Air Quality Standards for Oxides of Nitrogen and Sulfur,* contains staff analyses of the scientific bases for alternative policy options for consideration by the Agency prior to rulemaking. This document, which builds upon the historical "Staff Paper," will serve to "bridge the gap" between the available scientific information and the judgments required of the Administrator in determining whether it is appropriate to retain or revise the standards.[2] The current and potential alternative standards for oxides of nitrogen and sulfur are considered in terms of the basic elements of the NAAQS: indicator, averaging time, form, and level. The Policy Assessment builds upon information presented in the *Integrated Science Assessment for Oxides of Nitrogen and Sulfur—Ecological Criteria: Final report* (ISA, EPA EPA/600/R–08/082F, December 2008) and the quantitative risk and exposure assessment document (REA)—*Risk and Exposure Assessment for Review of the Secondary National Ambient Air Quality Standards for Oxides of Nitrogen and Oxides of Sulfur* (EPA–452/R–09–008a and EPA–452/R–09–008b; September 2009).

A first draft Policy Assessment (EPA–452/P–10–006) was released in March 2010 to facilitate discussion with the Clean Air Scientific Advisory Committee (CASAC) at an April 1–2, 2010 meeting on the overall structure, areas of focus, and level of detail to be included in the Policy Assessment (75 FR 10479–10481, March 2010). CASAC's comments on the first draft Policy Assessment encouraged the development of a document focused on the key policy-relevant issues that draws from and is not repetitive of information in the ISA and REA. These comments were considered in developing a second draft Policy Assessment (EPA 452/P–10–008, September 2010). The EPA presented an overview of the second draft Policy Assessment at a CASAC meeting on October 6–7, 2010 (75 FR 54871–54872).

CASAC (EPA–CASAC–11–003) and public comments on the second draft Policy Assessment were considered by EPA staff in developing both the January 14, 2011 version and this current version of the final Policy Assessment, which reflects final editing and formatting, and is available through the Agency's Technology Transfer Network (TTN) Web site at *http://www.epa.gov/ttn/naaqs/standards/no2so2sec/cr_pa.html.* CASAC has requested a February 15–16, 2011, meeting to review EPA's final Policy Assessment.

Dated: February 9, 2011.

Mary E. Henigin,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 2011–3382 Filed 2–14–11; 8:45 am]

BILLING CODE 6560–50–P

of nitrogen and sulfur are available at: *http://www.epa.gov/ttn/naaqs/standards/no2so2sec/index.html.*

[2] *See http://www.epa.gov/ttn/naaqs/review.html* for a copy of Administrator Jackson's May 21, 2009, memorandum and for additional information on the NAAQS review process.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R01–OAR–2008–0117; A–1–FRL–9267–1]

Status of Motor Vehicle Budgets in Submitted State Implementation Plan for Transportation Conformity Purposes; Connecticut; Notice of Withdrawal of Adequacy of Motor Vehicle Emissions Budgets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of withdrawal of adequacy.

SUMMARY: EPA is notifying the public that EPA has withdrawn its previous adequacy finding on the 2012 motor vehicle emission budgets (MVEBs) for Connecticut's two 8-hour ozone nonattainment areas. EPA has withdrawn the adequacy finding because Connecticut Department of Environmental Protection (CT DEP) withdrew its 2012 motor vehicle emission budgets from its eight-hour ozone attainment demonstration SIP for both ozone nonattainment areas. As a result of our finding, Connecticut can not use these 2012 motor vehicle emission budgets for future conformity determinations.

DATES: This finding is effective March 2, 2011.

FOR FURTHER INFORMATION CONTACT: Donald O. Cooke, Environmental Scientist, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, Five Post Office Square, Suite 100 (CAQ), Boston, MA 02109–3912, (617) 918–1668, *cooke.donald@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, whenever "we," "us" or "our" is used, we mean EPA.

Today's action is simply an announcement of a finding that we have already made.

On February 1, 2008, Connecticut submitted 2008, 2009, and 2012 summer day volatile organic compound (VOC) and nitrogen oxides (NOx) MVEBs for the Connecticut portion of the New York-Northern New Jersey-Long Island, NY–NJ–CT (Southwest Connecticut) 8-hour ozone nonattainment area and for the Greater Connecticut 8-hour ozone nonattainment area. These MVEBs were submitted to EPA as part of the 8-hour ozone attainment demonstrations and reasonable further progress plans for these areas. Although not required by the Clean Air Act or EPA regulation, Connecticut included the 2012 budgets in its ozone attainment demonstrations based on uncertainty as to whether attainment would be met by the applicable June 15, 2010 attainment date for the two nonattainment areas. EPA found Connecticut's 2008, 2009, and 2012 MVEBs adequate for transportation conformity purposes. *See* 73 FR 33428; June 12, 2008.

On August 23, 2010, CT DEP withdrew the 2012 MVEBs from its 8-hour ozone attainment demonstration SIP for both ozone nonattainment areas. At that time, CT DEP also requested that EPA withdraw the adequacy findings for the 2012 MVEBs, since both ozone nonattainment areas have monitored air quality data demonstrating attainment of the 1997 8-hour ozone National Ambient Air Quality Standard, and the 2012 MVEBs are no longer necessary to ensure attainment.[1]

Connecticut's request to withdraw the 2012 MVEBs was announced on EPA's conformity Web site, and received no comments. (*See http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm.* Once there, click on "What SIP submissions are currently under EPA adequacy review?")

On December 30, 2010, EPA sent a letter to the CT DEP withdrawing our previous adequacy finding on the 2012 MVEBs for the Southwest Connecticut and the Greater Connecticut 8-hour ozone nonattainment areas.

The 2012 MVEBs are withdrawn for transportation conformity purposes. However, the 2008 (reasonable further progress) MVEBs and the 2009 (attainment) MVEBs that were previously deemed adequate, remain adequate for transportation conformity purposes.

Authority: 42 U.S.C. 7401–7671 q.

[1] EPA has determined that the Greater Connecticut area has attained the 1997 8-hour ozone standard. See 75 FR 53219; August 31, 2010. EPA has not yet taken action regarding the Southwest Connecticut area.

Dated: February 1, 2011.

Ira W. Leighton,

Acting Regional Administrator, EPA New England.

[FR Doc. 2011–3385 Filed 2–14–11; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

February 8, 2011.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (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, and (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before April 18, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to the Federal Communications Commission via e-mail to *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Leslie F. Smith, Office of Managing Director, (202) 418–0217, or via the Internet at *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0430.

Title: Section 1.1206, Permit-but-Disclose Proceedings.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or household; Business or other for-profit; Not-for-profit institutions; Federal Government; and State, local, or tribal government.

Number of Respondents and Responses: 9,990 respondents; 9,990 responses.

Estimated Time per Response: 0.5 hours.

Frequency of Response: On occasion reporting requirements; recordkeeping; third party disclosure.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in Sections 4(i) and 4(j), 303(r), and 409 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 154(j), 303(r), and 409.

Total Annual Burden: 4,995 hours.

Total Annual Cost: $0.00.

Privacy Act Impact Assessment: No impacts.

Nature and Extent of Confidentiality: The Commission is not requesting that the respondents submit confidential information to the FCC. Respondents may, however, request confidential treatment for information they believe to be confidential under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission's rules, under 47 CFR 1.1206, require that a public record be made of *ex parte* presentations (*i.e.,* written presentations not served on all parties to the proceeding or oral presentations as to which all parties have not been given notice and an opportunity to be present) to decision-making personnel in "permit-but-disclose" proceedings, such as notice-and-comment rulemakings and declaratory ruling proceedings. Persons making such presentations must file two copies of written presentations and two copies of memoranda reflecting new data or arguments in oral presentations no later than the next business day after the presentation; alternatively, in proceedings in which electronic filing is permitted, a copy may be filed electronically. The information is used by parties to permit-but-disclose proceedings, including interested members of the public, to respond to the arguments made and data offered in the presentations. The responses may then be used by the Commission in its decision-making. The availability of the *ex parte* materials ensures that the Commission's decisional processes are fair, impartial, and comport with the concept of due process in that all interested parties can know of and respond to the arguments made to the decision-making officials.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–3288 Filed 2–14–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collections to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collections described below.

DATES: Comments must be submitted on or before March 17, 2011.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *E-mail: comments@fdic.gov.*

Include the name of the collection in the subject line of the message.

- *Mail:* Leneta G. Gregorie (202–898–3719), Counsel, Room F–1084, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory

Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leneta Gregorie, at the FDIC address above.

SUPPLEMENTARY INFORMATION: *Proposal to renew the following currently approved collections of information:*

1. Title: Application for Waiver of Prohibition on Acceptance of Brokered Deposits for Adequately Capitalized Insured Institutions.

OMB Number: 3064–0099.

Frequency of Response: On occasion.

Affected Public: Any insured depository institution seeking a waiver to the prohibition on the acceptance of brokered deposits.

Estimated Number of Respondents: 130.

Estimated Time per Response: 6 hours.

Total Annual Burden: 780 hours.

General Description of Collection: Section 29 of the FDI Act prohibits undercapitalized insured depository institutions from accepting, renewing, or rolling over any brokered deposits. Adequately capitalized institutions may do so with a waiver from the FDIC, while well-capitalized institutions may accept, renew, or roll over brokered deposits without restriction.

2. Title: Management Official Interlocks.

OMB Number: 3064–0118.

Frequency of Response: On occasion.

Affected Public: Insured State nonmember banks.

Estimated Number of Respondents: 7.

Estimated Time per Response: 4 hours.

Total Annual Burden: 28 hours.

General Description of Collection: This collection is associated with the FDIC's Management Official Interlocks regulation, 12 CFR part 348, which implements the Depository Institution Management Interlocks Act (DIMIA). DIMIA generally prohibits bank management officials from serving simultaneously with two unaffiliated depository institutions or their holding companies but allows the FDIC to grant exemptions on request in appropriate circumstances.

3. Title: Foreign Branching and Investment by Insured State Nonmember Banks.

OMB Number: 3064–0125.

Frequency of Response: On occasion.

Affected Public: Insured state nonmember banks.

Estimated Number of Respondents: Recordkeeping: 40; reporting: 11.

Estimated Time per Response: recordkeeping: 400 hours; reporting: 27 hours.

Total Annual Burden: 16,298 hours.

General Description of Collection: The Federal Deposit Insurance (FDI) Act requires state nonmember banks to obtain FDIC consent to establish or operate a branch in a foreign country, or to acquire and hold, directly or indirectly, stock or other evidence of ownership in any foreign bank or other entity. The FDI Act also authorizes the FDIC to impose conditions for such consent and to issue regulations related thereto. This collection is a direct consequence of those statutory requirements.

4. Title: Affiliate Marketing Disclosures/Consumer Opt-Out Notices.

OMB Number: 3064–0149.

Frequency of Response: On occasion.

Affected Public: Insured state nonmember banks.

Number of Respondents: 978 financial institutions and 198,450 consumers.

Estimated Time per Response: 18 hours: prepare and distribute notice to consumers and employee training; 5 minutes: consumer response to opt-out notice.

Total Estimated Annual Burden: 34,142 hours.

General Description of Collection: Section 624 of the Fair Credit Reporting Act generally provides that, if a person shares certain information about a consumer with an affiliate, the affiliate may not use that information to make or send solicitations to the consumer about its products or services, unless the consumer is given notice and a reasonable opportunity to opt out of such use of the information and the consumer does not opt out. The information collections for which the Agencies seek OMB approval are (1) Notices to consumers of the opportunity to opt out of solicitations from affiliates, and (2) consumer responses to the opt out notices.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 10th day of February 2011.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2011–3335 Filed 2–14–11; 8:45 am]

BILLING CODE 6741–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC Advisory Committee on Economic Inclusion (ComE–IN); Notice of Meeting

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of open meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, notice is hereby given of a meeting of the FDIC Advisory Committee on Economic Inclusion, which will be held in Washington, DC. The Advisory Committee will provide advice and recommendations on initiatives to expand access to banking services by underserved populations.

DATES: Wednesday, March 2, 2011, from 8:45 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held in the FDIC Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Committee Management Officer of the FDIC, at (202) 898–7043.

SUPPLEMENTARY INFORMATION:

Agenda: The agenda will be focused on low- and moderate-income mortgage lending, teaching financial education, and policy and project updates. The agenda may be subject to change. Any changes to the agenda will be announced at the beginning of the meeting.

Type of Meeting: The meeting will be open to the public, limited only by the space available on a first-come, first-served basis. For security reasons, members of the public will be subject to security screening procedures and must present a valid photo identification to enter the building. The FDIC will provide attendees with auxiliary aids (*e.g.*, sign language interpretation) required for this meeting. Those attendees needing such assistance should call (703) 562–6067 (Voice or TTY) at least two days before the meeting to make necessary arrangements. Written statements may be filed with the committee before or

after the meeting. This ComE–IN meeting will be Webcast live via the Internet at: *http://www.vodium.com/goto/fdic/advisorycommittee.asp.* This service is free and available to anyone with the following systems requirements: *http://www.vodium.com/home/sysreq.html.* Adobe Flash Player is required to view these presentations. The latest version of Adobe Flash Player can be downloaded at *http://www.adobe.com/shockwave/download/download.cgi?P1_Prod_Version=ShockwaveFlash.* Installation questions or troubleshooting help can be found at the same link. For optimal viewing, a high speed internet connection is recommended. The ComE–IN meeting videos are made available on-demand approximately two weeks after the event.

Dated: February 10, 2011.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. 2011–3331 Filed 2–14–11; 8:45 am]

BILLING CODE 6714–01–P

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 March 3, 2011.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Noah W. Wilcox, Grand Rapids, Minnesota, as an individual and as trustee of the Noah W. Wilcox Trust, Grand Rapids, to acquire 25 percent or more of the voting shares of Wilcox Bancshares, Grand Rapids, Minnesota, and thereby indirectly control Grand Rapids State Bank, Grand Rapids, Minnesota. Additionally, the Noah W. Wilcox Trust, trustees Noah W. Wilcox and Dorsey & Whitney Trust Company LLC, Sioux Falls, South Dakota, is filing to join the Wilcox Family Group, and thereby indirectly control Grand Rapids State Bank, Grand Rapids, Minnesota.

Board of Governors of the Federal Reserve System, February 10, 2011.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2011–3370 Filed 2–14–11; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

ET date	Trans. No.	ET req status	Party name
Early Terminations Granted January 1, 2011 thru January 31, 2011			
01/03/2011	20110401	G	Royalty Pharma Cayman Holdings, L.P.; Cypress Bioscience, Inc.; Royalty Pharma Cayman Holdings, L.P.
01/04/2011	20110412	G	TransForce Inc.; Dynamex Inc.; TransForce Inc.
	20110416	G	Ezra Holdings Limited; Aker Solutions ASA; Ezra Holdings Limited.
	20110427	G	Cequel Communications Holdings, LLC; News-Press & Gazette Company; Cequel Communications Holdings, LLC.
01/05/2011	20110320	G	Medtronic, Inc.; Ardian, Inc.; Medtronic, Inc.
	20110409	G	KPCB Digital Growth Fund, LLC; Twitter, Inc.; KPCB Digital Growth Fund, LLC.
	20110418	G	Schnitzer Steel Industries, Inc.; Edgar Jackson, Trustee, William Jackson Family Trust; Schnitzer Steel Industries, Inc.
	20110433	G	Aviation Industry Corporation of China; Teledyne Technologies Incorporated; Aviation Industry Corporation of China.
01/06/2011	20110421	G	The GEO Group. Inc.; AEA Investors 2006 Fund L.P.; The GEO Group, Inc.
	20110428	G	Rhone Partners III LP; Donata Holding SE; Rhone Partners III LP.
	20110429	G	Berkshire Fund VII, L.P.; Donata Holding SE; Berkshire Fund VII, L.P.
	20110430	G	Rhone Offshore Partners III L.P.; Donata Holding SE; Rhone Offshore Partners III L.P.
01/07/2011	20110410	G	Hancock Timberland X LP; Weyerhaeuser Company; Hancock Timberland X LP.
	20110414	G	TPG Capital VI, L.P.; J. Crew Group, Inc.; TPG Capital VI, L.P.
	20110415	G	Manulife Financial Corporation; Weyerhaeuser Company; Manulife Financial Corporation.
	20110435	G	Lincolnshire Equity Fund IV–A, L.P.; Trilantic Capital Partners III L.P.; Lincolnshire Equity Fund IV–A, L.P.
	20110436	G	Kikuchi Co., Ltd.; Takao Kinzoku Kogyo Co., Ltd.; Kikuchi Co., Ltd.
01/10/2011	20110426	G	United Fire & Casualty Company; Mercer Insurance Group, Inc.; United Fire & Casualty Company.
	20110439	G	Mr. Malvinder Mohan Singh; Landmark Partners, Inc.-CT; Mr. Malvinder Mohan Singh.

ET date	Trans. No.	ET req status	Party name
	20110440	G	Mr. Shivinder Mohan Singh: Landmark Partners, Inc.-CT; Mr. Shivinder Mohan Singh.
01/12/2011	20110389	G	SAFRAN SA; L–1 Identity Solutions, Inc.; SAFRAN SA.
	20110446	G	Mark West Energy Partners, L.P.; EQT Corporation; Mark West Energy Partners, L.P.
01/14/2011	20110404	G	Investor AB; The NASDAQ OMX Group, Inc.; Investor AB.
	20110424	G	Teradata Corporation; Aprimo, Inc.; Teradata Corporation.
	20110447	G	The Coca-Cola Company; Honest Tea Inc.; The Coca-Cola Company.
	20110450	G	Plains All American Pipeline, L.P.; SGR Holdings, L.L.C.; Plains All American Pipeline, L.P.
	20110454	G	Warburg Pincus Private Equity X, L.P.; ReSearch Pharmaceutical Services, Inc.; Warburg Pincus Private Equity X, L.P.
	20110456	G	AJAG Holdco, Inc.; ACO Holding LP; AJAG Holdco, Inc.
01/18/2011	20110455	G	Teledyne Technologies Incorporated; DALSA Corporation; Teledyne Technologies Incorporated.
01/19/2011	20100756	G	Hartford Health Care Corporation; Central Connecticut Health Alliance, Inc.; Hartford Health Care Corporation.
	20110392	G	GlaxoSmithKline plc; Affiris GmbH; GlaxoSmithKline plc.
01/20/2011	20110373	G	ABB Ltd; Baldor Electric Company; ABB Ltd.
01/21/2011	20110445	G	Rovi Corporation; Sonic Corporation; Rovi Corporation.
01/24/2011	20110457	G	John Wood Group PLC; Production Services Network, Ltd.; John Wood Group PLC.
	20110464	G	Fairfax Financial Holdings Limited; AbitibiBowater Inc.; Fairfax Financial Holdings Limited.
	20110465	G	Green Equity Investors V, L.P.; Jo-Ann Stores, Inc.; Green Equity Investors V, L.P.
	20110468	G	New Generations Trust; Thomas and Dafna Kaplan; New Generations Trust.
	20110470	G	Koch Industries, Inc.; Hawkeye Renewables, LLC; Koch Industries, Inc.
	20110475	G	Cephalon, Inc.; Mesoblast Limited; Cephalon, Inc.
	20110476	G	Arthur D. Levinson; Apple Inc.; Arthur D. Levinson.
	20110478	G	iGATE Corporation; Patni Computer Systems Limited; iGATE Corporation.
	20110480	G	Apax Europe VII–B, L.P.; iGATE Corporation; Apax Europe VII–B, L.P.
	20110485	G	Holcim Ltd.; John Victor Lattimore, Jr.; Holcim Ltd.
01/25/2011	20110322	G	BE Aerospace, Inc.; Robert Tracey; BE Aerospace, Inc.
01/27/2011	20110340	G	General Mills, Inc.; Dean Foods Company; General Mills, Inc.
	20110448	G	Prysmian S.p.A.; Draka Holding N.V.; Prysmian S.p.A.
	20110466	G	Alfa Laval AB; Altor II Sarl; Alfa Laval AB.
	20110508	G	Pfizer Inc.; King Pharmaceuticals, Inc.; Pfizer Inc.
01/28/2011	20110441	G	Raytheon Company; Applied Signal Technology, Inc.; Raytheon Company.
	20110461	G	Occidental Petroleum Corporation; Antonia Lophitou; Occidental Petroleum Corporation.
	20110493	G	Wayzata Opportunities Fund II, LP.; Public Service Enteprise Group Incorporation; Wayzata Opportunities Fund II, L.P.
	20110501	G	Hubbard Broadcasting, Inc.; Deseret Management Corporation; Hubbard Broadcasting Inc.
01/31/2011	20110337	G	Cenveo, Inc.; MeadWestvaco Corporation; Cenveo, Inc.
	20110471	G	TSRC Corporation; The Dow Chemical Company; TSRC Corporation.
	20110473	G	TSRC Corporation; Exxon Mobil Corporation; TSRC Corporation.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Contact Representative or Renee Chapman, Contact Representative, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room H–303 Washington, DC 20580, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2011–3175 Filed 2–14–11; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS GRANTED DECEMBER 20, 2010 THRU DECEMBER 31, 2010

ET date	Trans. No.	ET req status	Party name
12/20/2010	20110142	G	McKesson Corporation; Welsh, Carson, Anderson & Stowe IX, L.P.; McKesson Corporation.
	20110293	G	Boston Scientific Corporation; Sadra Medical, Inc.; Boston Scientific Corporation.
	20110297	G	The NASDAQ OMX Group, Inc.; Val E. Vaden; The NASDAO OMX Group, Inc.
	20110357	G	Oak Hill Capital Partners II, L.P.; Vantage Oncology, Inc.; Oak Hill Capital Partners II, LP.

EARLY TERMINATIONS GRANTED DECEMBER 20, 2010 THRU DECEMBER 31, 2010—Continued

ET date	Trans. No.	ET req status	Party name
	20110358	G	Vantage Oncology, Inc.; Oak Hill Capital Partners II, L.P.; Vantage Oncology, Inc.
	20110372	G	Ebro Foods S.A.; Ricegrowers Limited; Ebro Foods S.A.
	20110378	G	Brightpoint, Inc.; The Richard Arnesen Graham Family Descendants' Trust; Brightpoint, Inc.
	20110379	G	Aetna, Inc.; Medicity, Inc.; Aetna, Inc.
	20110384	G	Illinois Tool Works Inc.; Royal Dutch Shell plc; Illinois Tool Works Inc.
12/21/2010	20110377	G	Helen of Troy Limited; Kaz, Inc.; Helen of Troy Limited.
12/23/2010	20110304	G	Roche Holding Ltd.; Marcadia Biotech, Inc.; Roche Holding Ltd.
12/27/2010	20110318	G	STG III, LP; CoreLogic, Inc.; STG III, LP.
	20110391	G	H.I.G. Bayside Debt & LBO Fund II, L.P.; Matrixx Initiatives, Inc.; H.I.G. Bayside Debt & LBO Fund II, L.P.
	20110393	G	Prestige Brands Holdings, Inc.; Johnson & Johnson; Prestige Brands Holdings, Inc.
	20110395	G	PBF Energy Company LLC; Sunoco, Inc.; PBF Energy Company LLC.
	20110396	G	TPG VI DE AIV II, L.P.; Ashland Inc.; TPG VI DE AIV II, L.P.
	20110398	G	Exxon Mobil Corporation; Petrohawk Energy Corporation; Exxon Mobil Corporation.
	20110399	G	Lennox International Inc.; The Manitowoc Company, Inc.; Lennox International Inc.
	20110406	G	Carl C. Icahn; Dynegy Inc.; Carl C. Icahn.
	20110407	G	China Huaneng Group; Inter Gen N.V.; China Huaneng Group.
	20110408	G	Grupo Empresarial Kaluz, S.A. de C.V.; Rockwood Holdings, Inc.; Grupo Empresarial Kaluz, S.A. de C.V.
12/28/2010	20100854	G	Keystone Holdings, LLC; Compagnie de Saint-Gobain; Keystone Holdings, LLC.
	20110394	G	Aceto Corporation; Ronald Gold; Aceto Corporation.
12/29/2010	20110402	G	M & F Worldwide Corp.; Knowledge Universe Limited LLC; M & F Worldwide Corp.
12/30/2010	20110385	G	Fairfax Financial Holdings Limited; AbitibiBowater Inc.; Fairfax Financial Holdings Limited.

For Further Information Contact: Sandra M. Peay, Contact Representative, or Renee Chapman, Contact Representative, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room H–303, Washington, DC 20580, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2011–3174 Filed 2–14–11; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Toxicology Program (NTP): Office of Liaison, Policy, and Review; Availability of Draft NTP Technical Reports; Request for Comments; Announcement of a Panel Meeting To Peer Review Draft NTP Technical Reports

AGENCY: National Institute of Environmental Health Sciences (NIEHS); National Institutes of Health (NIH).

ACTION: Availability of Draft Reports; Request for Comments; and Announcement of a Meeting

SUMMARY: The NTP announces the availability of draft NTP Technical Reports (TRs; available at *http://ntp.niehs.nih.gov/go/36051*) that will be peer-reviewed by an NTP Technical Reports Peer Review Panel at a meeting on April 5, 2011. The meeting is open to the public with time scheduled for oral public comment. The NTP also invites written comments on the draft reports (*see* "Request for Comments" below). Summary minutes from the peer review will be posted on the NTP Web site following the meeting.

DATES: The meeting to review the draft NTP TRs will be held on April 5, 2011. The draft NTP TRs should be available for public comment by February 25, 2011. The deadline to submit written comments is March 22, 2011, and the deadline for pre-registration to attend the meeting and/or provide oral comments at the meeting is March 29, 2011.

ADDRESSES: The meeting will be held at the Rodbell Auditorium, Rall Building, NIEHS, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709. Public comments and any other correspondence on the draft TRs should be sent to Danica Andrews, NIEHS, P.O. Box 12233, MD K2–03, Research Triangle Park, NC 27709, FAX: (919) 541–0295, or *andrewsda@niehs.nih.gov.* Courier address: 530 Davis Drive, Room 2136, Morrisville, NC 27560. Persons needing interpreting services in order to attend should contact (301) 402–8180 (voice) or (301) 435–1908 (TTY). Requests should be made at least seven business days in advance of the meeting.

FOR FURTHER INFORMATION CONTACT: Danica Andrews, NTP Designated Federal Officer, (919) 541–2595, *andrewsda@niehs.nih.gov.*

SUPPLEMENTARY INFORMATION:

Preliminary Agenda Topics and Availability of Meeting Materials

The agenda topic is the peer review of the findings and conclusions of draft NTP TRs of toxicology and carcinogenesis studies in conventional or genetically modified rodent models. The preliminary agenda listing the draft reports and electronic files (PDF) of the draft reports should be posted on the NTP Web site by February 25, 2011. Any additional information, when available, will be posted on the NTP Web site (*http://ntp.niehs.nih.gov/go/36051*) or may be requested in hardcopy from the Designated Federal Officer (*see* **ADDRESSES** above). Following the meeting, summary minutes will be prepared and made available on the NTP Web site. Information about the NTP testing program is found at *http://ntp.niehs.nih.gov/go/test.*

Attendance and Registration

The meeting is scheduled for April 5, 2011, from 8:30 a.m. EST to adjournment and is open to the public with attendance limited only by the space available. Individuals who plan to attend are encouraged to register online at the NTP Web site (*http://ntp.niehs.nih.gov/go/36051*) by March 29, 2011, to facilitate access to the NIEHS campus. A photo ID is required to access the NIEHS campus. The NTP is making plans to videocast the meeting through the Internet at *http://www.niehs.nih.gov/news/video/live.* Registered attendees are encouraged to access the meeting page to stay abreast

of the most current information regarding the meeting.

Request for Comments

The NTP invites written comments on the draft reports, which should be received by March 22, 2011, to enable review by the panel and NTP staff prior to the meeting. Persons submitting written comments should include their name, affiliation, mailing address, phone, e-mail, and sponsoring organization (if any) with the document. Written comments received in response to this notice will be posted on the NTP Web site, and the submitter will be identified by name, affiliation, and/or sponsoring organization.

Public input at this meeting is also invited, and time is set aside for the presentation of oral comments on the draft reports. In addition to in-person oral comments at the meeting at the NIEHS, public comments can be presented by teleconference line. There will be 50 lines for this call; availability will be on a first-come, first-served basis. The available lines will be open from 8 a.m. until adjournment on April 5, although public comments will be received only during the formal public comment period for each draft report. Each organization is allowed one time slot per draft report. At least 7 minutes will be allotted to each speaker, and if time permits, may be extended to 10 minutes at the discretion of the chair. Persons wishing to make an oral presentation are asked to register via online registration at *http://ntp.niehs.nih.gov/go/36051,* phone, or e-mail (*see* **ADDRESSES** above) by March 29, 2011, and if possible, to send a copy of the statement or talking points at that time to Ms Andrews. Written statements can supplement and may expand the oral presentation. Registration for oral comments will also be available at the meeting, although time allowed for presentation by on-site registrants may be less than that for pre-registered speakers and will be determined by the number of persons who register on-site.

Background Information on NTP Panels

NTP panels are technical, scientific advisory bodies established on an "as needed" basis to provide independent scientific peer review and to advise the NTP on agents of public health concern, new/revised toxicological test methods, or other issues. These panels help ensure transparent, unbiased, and scientifically rigorous input to the program for its use in making credible decisions about human hazard, setting research and testing priorities, and providing information to regulatory agencies about alternative methods for toxicity screening. The NTP welcomes nominations of scientific experts for upcoming panels. Scientists interested in serving on an NTP panel should provide a current *curriculum vita* to Ms. Andrews (*see* **ADDRESSES**). The authority for NTP panels is provided by 42 U.S.C. 217a; section 222 of the Public Health Service (PHS) Act, as amended. The panel is governed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

Dated: February 3, 2011.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. 2011–3276 Filed 2–14–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Information Comparison with Insurance Data.

OMB No.: 0970–0342.

Description: The Deficit Reduction Act of 2005 amended Section 452 of the Social Security Act (the Act) to authorize the Secretary, through the Federal Parent Locator Service (FPLS), to conduct comparisons of information concerning individuals owing past-due child support with information maintained by insurers (or their agents) concerning insurance claims, settlements, awards, and payments. Public Law 109–171, § 7306. The Federal Office of Child Support Enforcement (OCSE) operates the FPLS in accordance with section 453(a)(1) of the Act. The Federal Case Registry of Child Support Orders (FCR) is maintained in the FPLS in accordance with section 453(h)(1) of the Act.

At the option of an insurer, the comparison may be accomplished by either of the following methods. Under the first method, an insurer or the insurers agent will submit to OCSE information concerning claims, settlements, awards, and payments. OCSE will then compare that information with information pertaining to individuals owing past-due support.

Under the second method, OCSE will furnish to the insurer or the insurer's agent a file containing information pertaining to individuals owing past-due support. The insurer or the insurer's agent will then compare that information with information pertaining to claims, settlements, awards, and payments. The insurer will furnish the information resulting from the comparison to OCSE.

On a daily basis OCSE will furnish the results of a comparison to the State agencies responsible for collecting child support from the individuals by transmitting the Insurance Match Response Record. The results of the comparison will be used by the State agencies to collect from the insurance proceeds past-due child support owed by the individuals.

Respondents: insurers or their agents, including the U.S. Department of Labor and State agencies administering workers compensation programs, and the Insurance Services Office (ISO).

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden per response	Total burden hours
Insurance Match Agreement	18	1	0.5	9
Insurance Match File	18	52	0.5	468

Estimated Total Annual Burden Hours: 477.

In compliance with the requirements of Section 506(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.* 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: February 9, 2011.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2011–3254 Filed 2–14–11; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: National Survey of Early Care and Education.

OMB No.: New Collection.

Billing Accounting Code (BAC): 418423 (CAN G999916).

Description: The Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is proposing a data collection activity as part of the National Survey of Early Care and Education (NSECE) which will be conducted December, 2011 through June, 2012. The objective of the NSECE is to document the nation's current need for and availability of early care and education and including school-age care (ECE/SA), and to deepen our understanding of the extent to which families' needs and preferences coordinate well with providers' offerings and constraints. The proposed collection will consist of four survey components: (1) A survey of households with children under the age of 13 for participation in a questionnaire on the need for and use of early care and education (Household Interview), (2) a survey of households with individuals providing care for children under the age of 13 in a residential setting (Home-based Provider Interview), (3) a survey of providers of care to children under 13 in a non-residential setting (Center-based Provider Interview), and (4) a survey conducted with individuals employed in center-based child care programs (Workforce Provider Interview).

These data collection efforts will provide urgently needed information about the provision of ECE/SA across the country and spanning many sectors of care providers such as community-based child care, Head Start, school-based Pre-K, family child care, family, friend and neighbor care, and after-school programs. The study will also dramatically extend the available resources for understanding how families use, seek, and cope with the ECE/SA choices that are available to them. Perhaps most significantly, the NSECE will allow the policy and research communities to merge data from families and providers at the local level—where the two actually meet.

Respondents: General population households, home-based and center-based child care providers (including public schools) serving children under 13, and selected staff members from center-based child care providers (including public schools) serving children under 13.

Instrument	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Estimated annual burden hours
Household screener	83,767	1	.1	8,377
Household Interview	17,512	1	.75	13,134
Home-Based Provider Interview	11,260	1	.3	3,378
Center-Based Provider Interview	12,520	1	.67	8,389
Workforce Provider Interview	9,390	1	.33	3,099

Estimated Total Annual Burden Hours: 36,377.

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 Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. E-mail address: *OPREinfocollection@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: February 8, 2011.

Steven P. Hanmer,

Reports Clearance Officer.

[FR Doc. 2011–3176 Filed 2–14–11; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Indian Health Professions Preparatory, Indian Health Professions Pre-Graduate and Indian Health Professions Scholarship Programs

Announcement Type: Initial.

CFDA Numbers: 93.971, 93.123, and 93.972.

DATES: *Key Dates:*

Application Deadline: February 28, 2011, for Continuing students.

Application Deadline: March 28, 2011, for New students.

Application Review: May 2–6, 2011.

Award Notification: First week of June, 2011, for Continuing students Award.

Notification: First week of July, 2011, for New students.

Award Start Date: August 1, 2011.

I. Funding Opportunity Description

The Indian Health Service (IHS) is committed to encouraging American Indians and Alaska Natives to enter the health professions and to assuring the availability of Indian health professionals to service Indians. The IHS is committed to the recruitment of students for the following programs:

- *The Indian Health Professions Preparatory Scholarship* authorized by section 103 of the Indian Health Care Improvement Act (IHCIA), Public Law 94–437 (1976).
- *The Indian Health Professions Pre-graduate Scholarship* authorized by section 103 of the IHCIA, Public Law 94–437 (1976).
- *The Indian Health Professions Scholarship authorized* by section 104 of the IHCIA, Public Law 94–437 (1976).

Full-time and part-time scholarships may be funded for each of the three scholarship programs.

II. Award Information

Awards under this initiative will be administered using the grant mechanism of the IHS.

Estimated Funds Available: An estimated $14.0 million will be available for FY 2011 awards. The IHS program anticipates, but cannot guarantee, due to possible funding changes, student scholarship selections from any or all of the following disciplines in the 103, 103P and 104 Programs for the Scholarship Period 2011–2012. Due to the rising cost of education and the decreasing number of scholars who can be funded by the IHS Scholarship Program (IHSSP), the IHSSP has changed the funding policy for Preparatory and Pre-graduate scholarship awards and reallocated a greater percentage of its funding in an effort to increase the number of Health Professions scholarship, and inherently the number of service obligated scholars, to better meet the health care provider needs of the IHS and its Tribal and Urban Indian health care system partners.

Anticipated Number of Awards: Approximately 50 awards will be made under the Health Professions Preparatory and Pre-graduate Scholarship Programs for Indians. The awards are for tuition and fees only and the average award to a full-time student is approximately $10,191.76. An estimated 241 awards will be made under the Indian Health Professions Scholarship Program. The awards are for 12 months in duration, and will cover both tuition and fees and Other Related Costs (ORC). The average award to a full-time student is approximately $49,642.81. In FY 2011, an estimated $9,000,000 is available for continuation awards, and an estimated $4,000,000 is available for new awards.

Project Period—The project period for the IHS Health Professions Preparatory Scholarship support, tuition and fees only, is limited to two years for full-time students and the part-time equivalent of two years, not to exceed four years for part-time students. The project period for the IHS Health Professions Pre-graduate Scholarship support, tuition and fees only, is limited to four years for full-time students and the part-time equivalent of four years, not to exceed eight years for part-time students. The IHS Health Professions Scholarship support, tuition, fees and Other Related Costs (ORC) is limited to four years for full-time students and the part-time equivalent of four years, not to exceed eight years for part-time students.

III. Eligibility Information

This announcement is a limited competition for awards made to American Indians (Federally recognized Tribal members, state recognized Tribal members, and first and second degree descendants of Federal or state recognized Tribal members), or Alaska Natives only. Continuation awards are non-competitive.

1. Eligible Applicants

The IHS Health Professions Preparatory Scholarship awards are made to American Indians (Federally recognized Tribal members, first and second degree descendants of Tribal members, and state recognized Tribal members, first and second degree descendants of Tribal members), or Alaska Natives who:

- Have successfully completed high school education or high school equivalency; and
- Have been accepted for enrollment in a compensatory, pre-professional general education course or curriculum; and

The IHS Health Professions Pre-graduate Scholarship awards are made to American Indians (Federally recognized Tribal members, first and second degree descendants of Tribal members, and state recognized Tribal members, first and second degree descendants of Tribal members), or Alaska Natives who:

- Have successfully completed high school education or high school equivalency; and
- Have been accepted for enrollment or are enrolled in an accredited pre-graduate program leading to a baccalaureate degree in pre-medicine, pre-dentistry, pre-podiatry or pre-optometry.

The IHS Indian Health Professions Scholarship may be awarded only to an individual who is a member of a Federally recognized Indian Tribe or Alaska Native as provided by section 4(c), and 4(d) of the IHCIA. Membership in a Tribe recognized only by a state does not meet this statutory requirement. To receive an Indian Health Professions Scholarship, an otherwise eligible individual must be enrolled in an appropriately accredited school and pursuing a course of study in a health profession as defined by section 4(10) of the IHCIA.

2. Cost Sharing/Matching

The Scholarship Program does not require matching funds or cost sharing to participate in the competitive grant process.

3. Benefits From State, Local and Other Federal Sources

Awardees of the Health Professions Preparatory or Health Professions Pre-graduate scholarship may accept outside funding from other scholarship, grant, fee waiver and student loan programs to assist with their education and other related expenses. Awardees of the Health Professions scholarship, who accept outside funding from other scholarship, grant and fee waiver programs, will have these monies applied to their student account at the college or university they are attending, before the IHS Scholarship Program will pay any of the remaining balance. These outside funding sources must be reported on the student's invoicing documents submitted by the college or university they are attending. Student loans accepted by Health Professions scholarship recipients will have no effect on the IHS Scholarship program payment made to their college or university.

IV. Application Submission Information

1. Address To Request Application Package

New applicants are responsible for contacting and requesting an application packet from their IHS Area Scholarship Coordinator. They are listed on the IHS Web site at *http://www.scholarship.ihs.gov/area_coordinators.cfm.* This information is listed below. Please review the following list to identify the appropriate IHS Area Scholarship Coordinator for your State. Application packets may be obtained by calling or writing to the following individuals listed below:

IHS Area office and states/locality served	Scholarship coordinator address
Aberdeen Area IHS: Iowa, Nebraska, North Dakota, South Dakota.	Ms. Kim Annis, IHS Area Scholarship Coordinator, Aberdeen Area IHS, 115 4th Avenue, SE, Aberdeen, SD 57401, Tele: (605) 226–7466.
Alaska Native Tribal Health Consortium: Alaska	Ms. Angelique Anderson, Alternate: Ms. Courtney Bridges, IHS Area Scholarship Coordinator, 4000 Ambassador Drive, Anchorage, AK 99508, Tele: (907) 729–1913, 1–800–684–8361 (toll free).
Albuquerque Area IHS: Colorado, New Mexico	Ms. Cora Boone, IHS Area Scholarship Coordinator, Albuquerque Area IHS, 5300 Homestead Road, NE, Albuquerque, NM 87110, Tele: (505) 248–4418, 1–800–382–3027 (toll free).
Bemidji Area IHS: Illinois, Indiana, Michigan, Minnesota, Wisconsin.	Mr. Tony Buckanaga, IHS Area Scholarship Coordinator, Bemidji Area IHS, 522 Minnesota Avenue, NW, Room 209, Bemidji, MN 56601, Tele: (218) 444–0486, 1–800–892–3079 (toll free).
Billings Area IHS: Montana, Wyoming	Mr. Delon Rock Above, Alternate: Ms. Bernice Hugs, IHS Area Scholarship Coordinator, Billings Area IHS, Area Personnel Office, P.O. Box 36600, 2900 4th Avenue, North, Suite 400, Billings, MT 59103, Tele: (406) 247–7215.
California Area IHS: California, Hawaii	Ms. Mona Celli, IHS Area Scholarship Coordinator, California Area IHS, 650 Capitol Mall, Suite 7–100, Sacramento, CA 95814, Tele: (916) 930–3981, ext. 311.
Nashville Area IHS: Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, District of Columbia.	Ms. Gina Blackfox, IHS Area Scholarship Coordinator, Nashville Area IHS, 711 Stewarts Ferry Pike, Nashville, TN 37214, Tele: (615) 467–1575.
Navajo Area IHS: Arizona, New Mexico, Utah	Ms. Aletha John, IHS Area Scholarship Coordinator, Navajo Area IHS, P.O. Box 9020, Window Rock, AZ 86515, Tele: (928) 871–1360.
Oklahoma City Area IHS: Kansas, Missouri, Oklahoma.	Ms. Larissa Walker, IHS Area Scholarship Coordinator, Oklahoma City Area IHS, 701 Market Drive, Oklahoma City, OK 73114, Tele: (405) 951–3970, 1–800–722–3357 (toll free).
Phoenix Area IHS: Arizona, Nevada, Utah	Melissa Ragels, IHS Area Scholarship Coordinator, Phoenix Area IHS, 1616 Indian School Road, #360E, Phoenix, AZ 85016, Tele: (602) 248–1480.
Portland Area IHS: Idaho, Oregon, Washington	Ms. Laurie Veitenheimer, IHS Area Scholarship Coordinator, 1414 NW Northrup Street, Suite 800, Portland, OR 97209, Tele: (503) 326–6983.
Tucson Area IHS: Arizona, Texas	Melissa Ragels (See Phoenix Area).

2. Content and Form Submission

Each applicant will be responsible for submitting a completed application (Forms IHS–856–1 through 856–8) and one copy to their IHS Area Scholarship Coordinator. Electronic applications are being accepted for this cycle. Go to *http://www.scholarship.ihs.gov* for more information on how to apply electronically. The on-line portal will be open on December 22, 2010. The application will be considered complete if the following documents (original and one copy) are included:

- Completed and signed application Checklist.
- Original, signed, complete application form IHS–856 (for continuation students-Data Sheet in place of IHS–856).
- Current Letter of Acceptance from College/University or Proof of Application to a College/University or Health Professions Program.
- Official transcripts for all colleges/universities attended (or high school transcripts or Certificate of Completion of Home School Program for applicants who have not taken college courses).
- Cumulative GPA: Applicant's calculations.
- Applicant's Documents for Indian Eligibility.

A. If you are a member of a Federally recognized Tribe or Alaska Native (recognized by the Secretary of the Interior), provide evidence of membership such as:

(1) Certification of Tribal enrollment by the Secretary of the Interior, acting through the Bureau of Indian Affairs (BIA Certification: Form 4432–Category A or D, whichever is applicable); or

(2) In the absence of BIA certification, documentation that you meet requirements of Tribal membership as prescribed by the charter, articles of incorporation or other legal instrument of the Tribe and have been officially designated as a Tribal member as evidenced by an accompanying document signed by an authorized Tribal official, or

(3) Other evidence of Tribal membership satisfactory to the Secretary of the Interior.

B. If you are a member of a Tribe terminated since 1940 or a State recognized Tribe and first or second degree descendant, provide official documentation that you meet the requirements of Tribal membership as prescribed by the charter, articles of incorporation or other legal instrument of the Tribe and have been officially designated as a Tribal member as evidenced by an accompanying document signed by an authorized Tribal official; or other evidence, satisfactory to the Secretary of the Interior, that you are a member of the Tribe. In addition, if the terminated or state recognized Tribe of which you are a member is not on a list of such Tribes published by the Secretary of the Interior in the **Federal Register**, you must submit an official signed document that the Tribe has been terminated since 1940 or is recognized by the state in which the Tribe is

located in accordance with the law of that state.

C. If you are not a Tribal member but are a natural child or grandchild of a Tribal member you must submit: (1) evidence of that fact, e.g., your birth certificate and your parent's/grandparent's birth/death certificate showing the name of the Tribal member; and (2) evidence of your parent's or grandparent's Tribal membership in accordance with paragraphs A and B. The relationship to the Tribal member must be clearly documented. Failure to submit the required documentation will result in the application not being accepted for review.

Note: If you meet the criteria of B or C you are eligible only for the Preparatory or Pre-graduate Scholarships.

- Two Faculty/Employer Evaluations with original signature.
- Reasons for Requesting the Scholarship.
- Delinquent Debt Form.
- 2011 W–4 Form with original signature.
- Course Curriculum Verification with original signature.
- Acknowledgement Card (if submitting a hard copy application).
- Curriculum for Major.

3. Submission Dates and Times

Application Receipt Date: The application deadline for *New* applicants is Monday, March 28, 2011.

Applications (original and one copy) shall be considered as meeting the deadline if they are received by the appropriate IHS Area Scholarship Coordinator, postmarked on or before the deadline date. Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing and will not be considered for funding. Once the application is received, the applicant will receive an "Acknowledgement of Receipt of Application" (IHS–815) card that is included in the application packet, if submitting a hard copy application. Applications received, with postmarks after the announced deadline date, will be returned to the applicant and will not be considered for funding.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

No more than 5% of available funds will be used for part-time scholarships this fiscal year. Students are considered part-time if they are enrolled for a minimum of six hours of instruction and are not considered in full-time status by their college/university. Documentation must be received from part-time applicants that their school and course curriculum allows less than full-time status. Both part-time and full-time scholarship awards will be made in accordance with 42 CFR 136.320, 136.330 and 136.370 and this information will be published in all IHSSP Applications and Student Handbooks as they pertain to the Indian Health Service Scholarship Program.

Other Submissions Requirements

New applicants are responsible for using the online application or contacting and requesting an application packet from their IHS Area Scholarship Coordinator. Continuation students are also encouraged to use the online application process; however, the Division of Grant Operations will also mail continuation students an application packet. If you do not receive this information please contact your IHS Area Scholarship Coordinator to request a continuation application.

Continuing students must submit a complete application (original plus one copy) and meet the deadline of Monday, February 28, 2011; *there will be no exceptions.*

V. Application Review Information

1. Criteria

Applications will be reviewed and scored with the following criteria.

- Needs of the IHS (health personnel needs in Indian Country) (30 points)

Applicants are considered for scholarship awards based on their desired career goals and how these goals relate to current Indian health personnel needs. Applications for each health career category are reviewed and ranked separately.

- Academic Performance (40 points)

Applicants are rated according to their academic performance as evidenced by transcripts and faculty evaluations. In cases where a particular applicant's school has a policy not to rank students academically, faculty members are asked to provide a personal judgment of the applicant's achievement. Health Professions applicants with a cumulative GPA below 2.0 are not eligible for award.

- Faculty/Employer Recommendations (30 points)

Applicants are rated according to evaluations by faculty members, current and/or former employers and Tribal officials regarding the applicant's potential in the chosen health related professions.

- Stated Reasons for Asking for the Scholarship and Stated Career Goals (30 points)

Applicants must provide a brief written explanation of reasons for asking for the scholarship and of their career goals. The applicant's narrative will be judged on how well it is written and its content.

- Applicants who are closest to graduation or completion of training are awarded first. For example, senior and junior applicants under the Health Professions Pre-graduate Scholarship receives funding before freshmen and sophomores.
- Priority Categories

The following is a list of health professions that will be considered for funding in each scholarship program in FY 2011.

- Indian Health Professions Preparatory Scholarships

A. Pre-Clinical Psychology (Jr. and Sr. undergraduate years).

B. Pre-Nursing.

C. Pre-Pharmacy.

D. Pre-Social Work (Jr. and Sr. preparing for an MS in social work).

- Indian Health Professions Pre-graduate Scholarships

A. Pre-Dentistry.

B. Pre-Medicine.

C. Pre-Podiatry.

- Indian Health Professions Scholarship

A. Bio Medical Engineering—BS.

B. Bio Medical Technology—AAS.

C. Chemical Dependency Counseling—Bachelor's and Master's Degrees.

D. Clinical Psychology—PhD or PsyD.

E. Dentistry—DDS or DMD degrees.

F. Diagnostic Radiology Technology: Associates and B.S.

G. Public Health Nutritionist: M.S.

H. Environmental Health/Sanitarian: B.S.

I. Health Records Administration: R.H.I.T. and R.H.I.A.

J. Medical Technology: B.S.

K. Medicine: Allopathic and Osteopathic.

L. Nurse: Associate and Bachelor Degrees and Advanced Degrees in Psychiatry, Geriatrics, Women's Health, Pediatrics, Nurse Anesthetist, and Nurse Practitioner.

(Priority consideration will be given to Registered Nurses employed by the IHS; in a program conducted under a contract or compact entered into under the Indian Self-Determination Act and Education Assistance Act (Pub. L. 93–638) and its amendments; or in a program assisted under Title V of the IHCIA).

M. Occupational Therapy: B.S. or Masters.

N. Pharmacy: Pharm.D.

O. Physician Assistant: PA–C.

P. Physical Therapy: M.S. and D.P.T.

Q. Podiatry: D.P.M.

R. Respiratory Therapy: BS Degree.

S. Social Work: Masters Level only (Direct Practice and Clinical concentrations).

T. Ultrasonography (Prerequisite: Diagnostic Radiology Technology).

2. Review and Selection Process

The applications will be reviewed and scored by the IHS Scholarship Program's Application Review Committee appointed by the IHS. Each reviewer will not be allowed to review an application from his/her area or his/her own Tribe. Each application will be reviewed by three reviewers. The average score of the three reviews provide the final Ranking Score for each applicant. To determine the ranking of each applicant, these scores are sorted from the highest to the lowest within each scholarship, health discipline, date of graduation, and score. If several students have the same date of graduation and score within the same discipline, computer ranking list will randomly sort and will not be sorted by alphabetical name. Selections are then made from the top of each ranking list to the extent that funds allocated by the IHS among the three scholarships are available for obligation.

VI. Award Administration Information

1. Award Notices

It is anticipated that continuing applicants will be notified in writing during the first week of June and new applicants will be notified in writing during the first week of July 2011. An Award Letter will be issued to successful applicants. Unsuccessful applicants will be notified in writing, which will include a brief explanation of the reason(s) the application was not successful and provide the name of the IHS official to contact if more information is desired.

2. Administrative and National Policy Requirements

Regulations at 42 CFR 136.304 provide that the IHS shall, from time to time, publish a list of health professions eligible for consideration for the award of IHS Health Professions Preparatory and Pre-graduate Scholarships and IHS Health Professions Scholarship. Section 104(b)(1) of the IHCIA, as amended by the Indian Health Care Amendment of 1988, Public Law 100–713, authorizes the IHS to determine specific health professions for which Indian Health Scholarships will be awarded.

Awards for the Indian Health Professions Scholarships will be made in accordance with 42 CFR 136.330.

Awardees shall incur a service obligation prescribed under section 338A of the Public Health Service Act (42 U.S.C. 2541) which shall be met by service, through clinical practice:

(1) In the IHS;

(2) In a program conducted under a contract or compact entered into under the Indian Self-Determination Act and Education Assistance Act (Pub. L. 93–638) and its amendments;

(3) In a program assisted under Title V of the Indian Health Care Improvement Act (Pub. L. 94–437) and its amendments; or

(4) In a private practice option of his or her profession (physicians, dentists, and clinical psychologists, only) if the practice (a) is situated in a health professional shortage area, designated in regulations promulgated by the Secretary of Health and Human Services (Secretary) and (b) addresses the health care needs of a substantial number (51%) of Indians as determined by the Secretary in accordance with guidelines of the Service.

Pursuant to the Indian Health Amendments of 1992, (Pub. L. 102–573), an awardee of an IHS Health Professions Scholarship may, at the election of the awardee, may meet his/her service obligation prescribed under section 338A of the Public Health Service Act (42 U.S.C. 2541) by a program specified in options (1)–(4) above that:

(i) Is located on the reservation of the Tribe in which the awardee is enrolled; or

(ii) Serves the Tribe in which the awardee is enrolled, if there is an open vacancy available in the discipline for which the awardee was funded under the IHS Health Professions Scholarship during the required, 90-day placement period.

- In summary, all awardees of the IHS Health Professions Scholarship are reminded that acceptance of this scholarship will result in a service obligation required by both statute and contract which must be preformed at an approved service payback facility. Moreover, the Director, IHS, has the authority to make the final determination, designating a facility, whether managed and operated by IHS, or one of its Tribal or Urban Indian partners, consistent with IHCIA, Public Law 94–437, as amended by Public Law 100–713, Public Law 102–573, and Public Law 111–148 § 10221 (2010), as approved for scholar obligated service payback.

3. Reporting

Scholarship Program Minimum Academic Requirements

It is the policy of the IHS that a scholarship awardee funded under the Health Professions Scholarship Program of the Indian Health Care Improvement Act must maintain a minimum 2.0 cumulative grade point average (GPA), remain in good academic standing each semester/trimester/quarter, maintain full-time student status (minimum number credit hours, based upon what is considered "full-time" by the applicant's school). In addition to these requirements, a Health Professions Scholarship program awardee must be enrolled in an approved/accredited school for a Health Professions degree. An awardee of a scholarship under the IHS Health Professions Pre-Graduate and Health Professions Preparatory Scholarship authority must maintain a minimum 2.0 cumulative grade point average (GPA), remain in good academic standing each semester/trimester/quarter and be a full time student (minimum of 12 credit hours or the number of credit hours considered by your school as full-time). Part-time students for the three scholarship programs must also maintain a 2.0 cumulative GPA and must take at least six credit hours (undergraduate) or 6 credit hours (post-graduate) each semester/trimester/quarter, but less than the number of hours considered full-time by your school. Scholarship awardees must be approved for part-time status at the time of scholarship award. Scholarship awardees may not change from part-time status to full-time status or vice versa in the same academic year.

The following reports must be sent to the IHS Scholarship Program at the identified time frame. Each scholarship awardee will be provided with an IHS Scholarship Program Student Handbook where the needed forms are located. If a scholarship awardee fails to submit these reports as required, they will be ineligible for continuation of scholarship support and scholarship award payments will be discontinued.

A. Recipient's Enrollment and Initial Progress Report

Within thirty (30) days from the beginning of each semester/trimester/quarter, scholarship awardees must submit a Recipient's Enrollment and Initial Progress Report (Form IHS–856–10, page 63 of the Student Handbook).

B. Transcripts

Within thirty (30) days from the end of each academic period, i.e., semester/

trimester/quarter, or summer session, scholarship awardees must submit an Official Transcript showing the results of the classes taken during that period.

C. Notification of Academic Problem/Change

If at any time during the semester/trimester/quarter, scholarship awardees are advised to reduce the number of credit hours for which they are enrolled, below the minimum of the 12 (or the number of hours considered by their school as full-time) for a full-time student or at least six hours for part-time students; or if they experience academic problems, they must submit this report (Form IHS–856–11, page 65 of the Student Handbook).

D. Change of Status

• Change of Academic Status

Scholarship awardees must immediately notify the IHS Area Scholarship Coordinator and their Scholarship Program Analyst if they are placed on academic probation, dismissed from school, or voluntarily withdraw for any reason (personal or medical).

• Change of Health Discipline

Scholarship awardees may not change from the approved IHS Scholarship Program health discipline during the school year. If an unapproved change is made, scholarship payments will be discontinued.

• Change in Graduation Date

Any time that a change occurs in a scholarship awardee's expected graduation date, they must notify their IHS Area Scholarship Coordinator and their Scholarship Program Analyst immediately, in writing. Justification must be attached from the school advisor.

VII. Agency Contacts

Please address application inquiries to the appropriate IHS Area Scholarship Coordinator. Other programmatic inquiries may be addressed to Dr. Dawn Kelly, Chief, Scholarship Program, 801 Thompson Avenue, Suite 120, Rockville, Maryland 20852; Telephone (301) 443–6622. (This is not a toll-free number.) For grants information, contact the Grants Scholarship Coordinator, Division of Grants Management, Indian Health Service, 801 Thompson Avenue, Suite 120, Rockville, Maryland 20852; Telephone (301) 443–0243. (This is not a toll-free number.)

VIII. Other Information

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of *Healthy People 2020,* a PHS-led activity for setting priority areas. This program announcement is related to the priority area of Education and Community-Based Programs. Potential applicants may download a copy of *Healthy People 2020,* at *http://www.healthypeople.gov.*

Interested individuals are reminded that the list of eligible health and allied professions is effective for applicants for the 2011–2012 academic year. These priorities will remain in effect until superseded. Applicants who apply for health career categories not listed as priorities during the current scholarship cycle will not be considered for a scholarship award.

Dated: February 7, 2011.

Yvette Roubideaux,

Director, Indian Health Service.

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BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Loan Repayment Program for Repayment of Health Professions Educational Loans

Announcement Type: Initial.

CFDA Number: 93.164.

DATES: *Key Dates:* February 25, 2011 first award cycle deadline date; August 19, 2011 last award cycle deadline date; September 16, 2011 last award cycle deadline date for supplemental loan repayment program funds; September 30, 2011 entry on duty deadline date.

I. Funding Opportunity Description

The Indian Health Service (IHS) estimated budget request for Fiscal Year (FY) 2011 includes $17,488,854 for the IHS Loan Repayment Program (LRP) for health professional educational loans (undergraduate and graduate) in return for full-time clinical service in Indian health programs.

This program announcement is subject to the appropriation of funds. This notice is being published early to coincide with the recruitment activity of the IHS, which competes with other Government and private health management organizations to employ qualified health professionals.

This program is authorized by Section 108 of the Indian Health Care Improvement Act (IHCIA), Public Law 94–437. The IHS invites potential applicants to request an application for participation in the LRP.

II. Award Information

The estimated amount available is approximately $17,488,854 to support approximately 390 competing awards averaging $44,860 per award for a two year contract. One year contract continuations will receive priority consideration in any award cycle. Applicants selected for participation in the FY 2011 program cycle will be expected to begin their service period no later than September 30, 2011.

III. Eligibility Information

1. Eligible Applicants

Pursuant to Section 108(b), to be eligible to participate in the LRP, an individual must:

(1)(A) Be enrolled—

(i) In a course of study or program in an accredited institution, as determined by the Secretary, within any State and be scheduled to complete such course of study in the same year such individual applies to participate in such program; or

(ii) In an approved graduate training program in a health profession; or

(B) Have a degree in a health profession and a license to practice in a state; and

(2)(A) Be eligible for, or hold an appointment as a Commissioned Officer in the Regular Corps of the Public Health Service (PHS); or

(B) Be eligible for selection for service in the Regular Corps of the PHS; or

(C) Meet the professional standards for civil service employment in the IHS; or

(D) Be employed in an Indian health program without service obligation; and

(E) Submit to the Secretary an application for a contract to the LRP. The Secretary must approve the contract before the disbursement of loan repayments can be made to the participant. Participants will be required to fulfill their contract service agreements through full-time clinical practice at an Indian health program site determined by the Secretary. Loan repayment sites are characterized by physical, cultural, and professional isolation, and have histories of frequent staff turnover. All Indian health program sites are annually prioritized within the Agency by discipline, based on need or vacancy.

Any individual who owes an obligation for health professional service to the Federal Government, a State, or other entity is not eligible for the LRP unless the obligation will be completely satisfied before they begin service under this program.

Section 108 of the IHCIA, as amended by Public Laws 100–713 and 102–573, authorizes the IHS LRP and provides in pertinent part as follows:

(a)(1) The Secretary, acting through the Service, shall establish a program to be

known as the Indian Health Service Loan Repayment Program (hereinafter referred to as the Loan Repayment Program) in order to assure an adequate supply of trained health professionals necessary to maintain accreditation of, and provide health care services to Indians through, Indian health programs.

Section 4(n) of the IHCIA, as amended by the Indian Health Care Improvement Technical Corrections Act of 1996, Public Law 104–313, provides that:

"Health Profession" means *allopathic medicine,* family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, psychology, public health, social work, marriage and family therapy, chiropractic medicine, environmental health and engineering, and allied health profession, *or any other health profession.*

For the purposes of this program, the term "Indian health program" is defined in Section 108(a)(2)(A), as follows:

(A) The term Indian health program means any health program or facility funded, in whole or in part, by the Service for the benefit of Indians and administered—

(i) Directly by the Service;

(ii) By any Indian Tribe or Tribal or Indian organization pursuant to a contract under—

(I) The Indian Self-Determination Act, or

(II) Section 23 of the Act of April 30, 1908, (25 U.S.C. 47), popularly known as the Buy Indian Act; or

(iii) By an urban Indian organization pursuant to Title V of this act.

Section 108 of the IHCIA, as amended by Public Laws 100–713 and 102–573, authorizes the IHS to determine specific health professions for which IHS LRP contracts will be awarded. The list of priority health professions that follows is based upon the needs of the IHS as well as upon the needs of American Indians and Alaska Natives.

(a) Medicine: Allopathic and Osteopathic.

(b) Nurse: Associate, B.S., and M.S. Degree.

(c) Clinical Psychology: Ph.D. and Psy.D.

(d) Social Work: Masters level only.

(e) Chemical Dependency Counseling: Baccalaureate and Masters level.

(f) Dentistry: DDS and DMD.

(g) Dental Hygiene.

(h) Pharmacy: B.S., Pharm.D.

(i) Optometry: O.D.

(j) Physician Assistant, Certified.

(k) Advanced Practice Nurses: Nurse Practitioner, Certified Nurse Midwife, Registered Nurse Anesthetist (Priority consideration will be given to Registered Nurse Anesthetists.).

(l) Podiatry: D.P.M.

(m) Physical Rehabilitation Services: Physical Therapy, Occupational Therapy, Speech-Language Pathology, and Audiology: M.S. and D.P.T.

(n) Diagnostic Radiology Technology: Certificate, Associate, and B.S.

(o) Medical Laboratory Scientist, Medical Technology, Medical Laboratory Technician: Associate, and B.S.

(p) Public Health Nutritionist/ Registered Dietitian.

(q) Engineering (Environmental): B.S. (Engineers must provide environmental engineering services to be eligible.)

(r) Environmental Health (Sanitarian): B.S.

(s) Health Records: R.H.I.T. and R.H.I.A.

(t) Respiratory Therapy.

(u) Ultrasonography.

2. Cost Sharing or Matching

Not applicable.

3. Other Requirements

Interested individuals are reminded that the list of eligible health and allied health professions is effective for applicants for FY 2011. These priorities will remain in effect until superseded.

IV. Application and Submission Information

1. Address To Request Application Package

Application materials may be obtained online at *http://www.loanrepayment.ihs.gov/* or by calling or writing to the address below. In addition, completed applications should be returned to: IHS Loan Repayment Program, 801 Thompson Avenue, Suite 120, Rockville, Maryland 20852, Telephone: 301/443–3396 [between 8 a.m. and 5 p.m. (EST) Monday through Friday, except Federal holidays].

2. Content and Form of Application Submission

Applications must be submitted on the form entitled "Application for the Indian Health Service Loan Repayment Program," identified with the Office of Management and Budget approval number of OMB #0917–0014, Expiration Date 02/29/2012.

3. Submission Dates and Times

Completed applications may be submitted to the IHS Loan Repayment Program, 801 Thompson Avenue, Suite 120, Rockville, Maryland 20852. Applications for the FY 2011 LRP will be accepted and evaluated monthly beginning February 25, 2011, and will continue to be accepted each month thereafter until all funds are exhausted for FY 2011. Subsequent monthly deadline dates are scheduled for Friday of the second full week of each month until August 19, 2011.

Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing.)

Applications received after the monthly closing date will be held for consideration in the next monthly funding cycle. Applicants who do not receive funding by September 30, 2011, will be notified in writing.

4. Intergovernmental Review

This program is not subject to review under Executive Order 12372.

5. Funding Restrictions

Not applicable.

6. Other Submission Requirements

All applicants must sign and submit to the Secretary, a written contract agreeing to accept repayment of educational loans and to serve for the applicable period of obligated service in a priority site as determined by the Secretary, and submit a signed affidavit attesting to the fact that they have been informed of the relative merits of the U.S. PHS Commissioned Corps and the Civil Service as employment options.

V. Application Review Information

1. Criteria

The IHS has identified the positions in each Indian health program for which there is a need or vacancy and ranked those positions in order of priority by developing discipline-specific prioritized lists of sites. Ranking criteria for these sites may include the following:

(a) Historically critical shortages caused by frequent staff turnover;

(b) Current unmatched vacancies in a health profession discipline;

(c) Projected vacancies in a health profession discipline;

(d) Ensuring that the staffing needs of Indian health programs administered by an Indian Tribe or Tribal health organization receive consideration on an equal basis with programs that are administered directly by the Service; and

(e) Giving priority to vacancies in Indian health programs that have a need

for health professionals to provide health care services as a result of individuals having breached LRP contracts entered into under this section.

Consistent with this priority ranking, in determining applications to be approved and contracts to accept, the IHS will give priority to applications made by American Indians and Alaska Natives and to individuals recruited through the efforts of Indian Tribes or Tribal or Indian organizations.

2. Review and Selection Process

Loan repayment awards will be made only to those individuals serving at facilities which have a site score of 70 or above during the first quarter and the second month of the second quarter of FY 2011, if funding is available.

One or all of the following factors may be applicable to an applicant, and the applicant who has the most of these factors, all other criteria being equal, will be selected.

(a) An applicant's length of current employment in the IHS, Tribal, or urban program.

(b) Availability for service earlier than other applicants (first come, first served).

(c) Date the individual's application was received.

3. Anticipated Announcement and Award Dates

Not applicable.

VI. Award Administration Information

1. Award Notices

Notice of awards will be mailed on the last working day of each month. Once the applicant is approved for participation in the LRP, the applicant will receive confirmation of his/her loan repayment award and the duty site at which he/she will serve his/her loan repayment obligation.

2. Administrative and National Policy Requirements

Applicants may sign contractual agreements with the Secretary for two years. The IHS may repay all, or a portion of the applicant's health profession educational loans (undergraduate and graduate) for tuition expenses and reasonable educational and living expenses in amounts up to $20,000 per year for each year of contracted service. Payments will be made annually to the participant for the purpose of repaying his/her outstanding health profession educational loans. Payment of health profession education loans will be made to the participant within 120 days, from the date the contract becomes effective. The effective date of the contract is calculated from the date it is signed by the Secretary or his/her delegate, or the IHS, Tribal, urban, or Buy-Indian health center entry-on-duty date, whichever is more recent.

In addition to the loan payment, participants are provided tax assistance payments in an amount not less than 20 percent and not more than 39 percent of the participant's total amount of loan repayments made for the taxable year involved. The loan repayments and the tax assistance payments are taxable income and will be reported to the Internal Revenue Service (IRS). The tax assistance payment will be paid to the IRS directly on the participant's behalf. LRP award recipients should be aware that the IRS may place them in a higher tax bracket than they would otherwise have been prior to their award.

3. Contract Extensions

Any individual who enters this program and satisfactorily completes his or her obligated period of service may apply to extend his/her contract on a year-by-year basis, as determined by the IHS. Participants extending their contracts may receive up to the maximum amount of $20,000 per year plus an additional 20 percent for Federal withholding.

VII. Agency Contacts

Please address inquiries to Ms. Jacqueline K. Santiago, Chief, IHS Loan Repayment Program, 801 Thompson Avenue, Suite 120, Rockville, Maryland 20852, Telephone: 301/443–3396 [between 8 a.m. and 5 p.m. (EST) Monday through Friday, except Federal holidays].

VIII. Other Information

IHS Area Offices and Service Units that are financially able are authorized to provide additional funding to make awards to applicants in the LRP, but not to exceed $35,000 a year plus tax assistance. All additional funding must be made in accordance with the priority system outlined below. Health professions given priority for selection above the $20,000 threshold are those identified as meeting the criteria in 25 U.S.C. 1616a(g)(2)(A) which provides that the Secretary shall consider the extent to which each such determination:

(i) Affects the ability of the Secretary to maximize the number of contracts that can be provided under the LRP from the amounts appropriated for such contracts;

(ii) Provides an incentive to serve in Indian health programs with the greatest shortages of health professionals; and

(iii) Provides an incentive with respect to the health professional involved remaining in an Indian health program with such a health professional shortage, and continuing to provide primary health services, after the completion of the period of obligated service under the LRP.

Contracts may be awarded to those who are available for service no later than September 30, 2011, and must be in compliance with any limits in the appropriation and Section 108 of the IHCIA not to exceed the amount authorized in the IHS appropriation (up to $32,000,000 for FY 2011). In order to ensure compliance with the statutes, Area Offices or Service Units providing additional funding under this section are responsible for notifying the LRP of such payments before funding is offered to the LRP participant.

Should an IHS Area Office contribute to the LRP, those funds will be used for only those sites located in that Area. Those sites will retain their relative ranking from the national site-ranking list. For example, the Albuquerque Area Office identifies supplemental monies for dentists. Only the dental positions within the Albuquerque Area will be funded with the supplemental monies consistent with the national ranking and site index within that Area.

Should an IHS Service Unit contribute to the LRP, those funds will be used for only those sites located in that Service Unit. Those sites will retain their relative ranking from the national site-ranking list. For example, Chinle Service Unit identifies supplemental monies for pharmacists. The Chinle Service Unit consists of two facilities, namely the Chinle Comprehensive Health Care Facility and the Tsaile PHS Indian Health Center. The national ranking will be used for the Chinle Comprehensive Health Care Facility (Score = 44) and the Tsaile PHS Indian Health Center (Score = 46). With a score of 46, the Tsaile PHS Indian Health Center would receive priority over the Chinle Comprehensive Health Care Facility.

Dated: February 7, 2011.

Yvette Roubideaux,

Director, Indian Health Service.

[FR Doc. 2011–3290 Filed 2–14–11; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Non-HIV Anti-Infective Therapeutics Special Emphasis Panel.

Date: March 3–4, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Soheyla Saadi, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, 301–435–0903, *saadisoh@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Skeletal Muscle Biology.

Date: March 3, 2011.

Time: 1:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Daniel F, McDonald, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7814, Bethesda, MD 20892, (301) 435–1215, *mcdonald@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: BRLE Special Emphasis Panel.

Date: March 8, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mark Lindner, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, 301–435–0913, *mark.lindner@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; BDCN Aging, Eye, and Neurodegeneration Special Emphasis Panel.

Date: March 8–9, 2011.

Time: 9 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Samuel C. Edwards, PhD, Chief, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *edwardss@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS Immunology and Pathogenesis Study Section.

Date: March 9, 2011.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina Santa Monica Hotel, 530 Pico Boulevard, Santa Monica, CA 90405.

Contact Person: Mary Clare Walker, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7852, Bethesda, MD 20892, (301) 435–1165, *walkermc@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS Clinical Studies and Epidemiology Study Section.

Date: March 10, 2011.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: InterContinental Mark Hopkins Hotel, 999 California Street, San Francisco, CA 94108.

Contact Person: Hilary D. Sigmon, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, (301) 594–6377, *sigmonh@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS Discovery and Development of Therapeutics Study Section.

Date: March 14, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Shiv A. Prasad, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301–443–5779, *prasads@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; NeuroAIDS and other End-Organ Diseases Study Section.

Date: March 21, 2011.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Mandarin Oriental, 1330 Maryland Avenue, SW., Washington, DC 20024.

Contact Person: Eduardo A Montalvo, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1168, *montalve@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 9, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–3369 Filed 2–14–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Review of Conferences and Scientific Meetings with an Environmental Health Focus.

Date: March 15, 2011.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, 530 Davis Drive, Research Triangle Park, NC 27713, (Telephone Conference Call)

Contact Person: Linda K. Bass, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural

Research and Training, Nat. Institute Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–1307, *bass@niehs.nih.gov.*

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Development to Independence Review Meeting.

Date: March 16, 2011.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, 530 Davis Drive, Research Triangle Park, NC 27713, (Telephone Conference Call).

Contact Person: Linda K. Bass, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–1307, *bass@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: February 8, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–3379 Filed 2–14–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Short-Term Research Education Program to Increase Diversity in Health-Related Research.

Date: March 3, 2011.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue, NW., Washington, DC 20036.

Contact Person: Youngsuk Oh, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7182, Bethesda, MD 20892–7924, 301–435–0277, *yoh@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Asthma Clinical Trial and Pilot Studies.

Date: March 3, 2011.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Charles Joyce, PhD, Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892–7924, 301–435–0288, *cjoyce@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Phase II Clinical Trials of Novel Therapies for Lung Diseases.

Date: March 4, 2011.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: YingYing Li-Smerin, MD, PhD, Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892–7924, 301–435–0277, *lismerin@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Mentored Career Development Award to Promote Faculty Diversity/Re-Entry in Biomedical Research.

Date: March 4, 2011.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue, NW., Washington, DC 20036.

Contact Person: Youngsuk Oh, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7182, Bethesda, MD 20892–7924, 301–435–0277, *yoh@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; New Strategies for Growing 3D Tissues.

Date: March 9–10, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: David A. Wilson, PhD, Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7204, Bethesda, MD 20892–7924, 301–435–0299, *wilsonda2@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; New Strategies for Growing 3D Tissue.

Date: March 10, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: David A. Wilson, PhD, Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7204, Bethesda, MD 20892–7924, 301–435–0299, *wilsonda2@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Planning Grants for Pivotal Clinical Trials in Hemoglobinopathies.

Date: March 14, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Keary A. Cope, PhD, Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7190, Bethesda, MD 20892–7924, 301–435–2222, *copeka@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: February 9, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–3373 Filed 2–14–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections

552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Patient Safety Ancillary Studies.

Date: March 8, 2011.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lakshmanan Sankaran, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 755, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *ls38z@nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 9, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–3377 Filed 2–14–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; International Epidemiologic Databases to Evaluate AIDS (IeDEA).

Date: March 9, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Brandt Randall Burgess, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–451–2584, *bburgess@niaid.nih.gov.*

Name: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; "Integrated Preclinical/Clinical AIDS Vaccine Development Program."

Date: March 9, 2011.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Raymond R. Schleef, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, (301) 451–3679, *schleefrr@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 9, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–3375 Filed 2–14–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, February 24, 2011, 8 a.m. to February 25, 2011, 5 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on February 4, 2011, 76 FR 6486–6487.

The meeting will be held February 21, 2011 to February 22, 2011. The meeting time and location remain the same. The meeting is closed to the public.

Dated: February 9, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–3372 Filed 2–14–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Final Information Quality Guidelines Policy

AGENCY: Department of Homeland Security.

ACTION: Notice and request for public comment on Final Information Quality Guidelines.

SUMMARY: These guidelines should be used to ensure and maximize the quality of disseminated information. The Department's guidelines are based on the guidelines of the Office of Management and Budget (OMB), "Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of the Information Disseminated by Federal Agencies" 67 FR 8452 (Feb. 22, 2002). The guidelines are not intended to be, and should not be construed as, legally binding regulations or mandates. These guidelines are intended only to improve the internal management of DHS and, therefore, are not legally enforceable and do not create any legal rights or impose any legally binding requirements or obligations on the agency or the public. Nothing in these guidelines affects any available judicial review of agency action. These guidelines will serve as the minimum standards for quality within the Department. DHS Components may expand upon these guidelines as necessary, and should use these guidelines to develop or improve their processes for ensuring information disseminated by the Components meet the quality standards. DHS Components should implement processes and mechanisms for receiving, reviewing, and responding to information request that are consistent with these guidelines. DHS Components with existing directives, instructions, and correction processes for information quality may continue to use them, provided they are consistent with the standards and processes established in these guidelines.

The guidelines apply to information disseminated to the public in any medium including textual, graphic, narrative, numerical, or audiovisual forms, including information posted on the Internet. The guidelines also apply

to DHS Component-sponsored distribution of information—where the DHS Component directs a third party to distribute information or DHS has the authority to review and approve the information before release. If the Department is to rely on information submitted by a third party that information would need to meet appropriate standards of objectivity and utility.

DATES: Comments are encouraged and will be accepted until March 17, 2011.

ADDRESSES: Public comments are invited on the information contained in the final policy. Comments on the final policy should be submitted electronically to *DHS.INFOQUALITY@DHS.GOV.* To obtain a copy of the policy please submit a request to *DHS.INFOQUALITY@DHS.GOV* (including your address and telephone number).

FOR FURTHER INFORMATION CONTACT: Department of Homeland Security, Information Quality Program Management Office at 202–447–5959.

Dated: January 25, 2011.

Richard A. Spires,

Chief Information Officer.

[FR Doc. 2011–3394 Filed 2–14–11; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2011–0001]

DHS Data Privacy and Integrity Advisory Committee

AGENCY: Privacy Office, DHS.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The DHS Data Privacy and Integrity Advisory Committee will meet on March 9, 2011, in Washington, DC. The meeting will be open to the public.

DATES: The DHS Data Privacy and Integrity Advisory Committee will meet on Wednesday, March 9, 2011, from 1 p.m. to 5 p.m. Please note that the meeting may end early if the Committee has completed its business.

ADDRESSES: The meeting will be held in the Carl Hayden Room, U.S. Government Printing Office, 732 North Capitol Street, NW., 8th floor, Washington, DC 20401. Written materials, requests to make oral presentations, and requests to have a copy of your materials distributed to each member of the Committee prior to the meeting should be sent to Martha K. Landesberg, Executive Director, DHS Data Privacy and Integrity Advisory Committee, by March 1, 2011. Persons who wish to submit comments and who are not able to attend or speak at the meeting may submit comments at any time. All submissions must include the Docket Number (DHS–2011–0001) and may be submitted by any *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: PrivacyCommittee@dhs.gov.* Include the Docket Number (DHS–2011–0001) in the subject line of the message.
- *Fax:* (703) 483–2999.
- *Mail:* Martha K. Landesberg, Executive Director, Data Privacy and Integrity Advisory Committee, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions must include the words "Department of Homeland Security Data Privacy and Integrity Advisory Committee" and the Docket Number (DHS–2011–0001). Comments will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the DHS Data Privacy and Integrity Advisory Committee, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Martha K. Landesberg, Executive Director, DHS Data Privacy and Integrity Advisory Committee, Department of Homeland Security, Washington, DC 20528, by telephone (703) 235–0780, by fax (703) 235–0442, or by e-mail to *PrivacyCommittee@dhs.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. During the meeting, the Chief Privacy Officer will provide the DHS Data Privacy and Integrity Advisory Committee an update on the activities of the DHS Privacy Office. In support of the Committee's ongoing advice to the Department on implementing privacy protections in DHS operations, the Committee will also hear and discuss presentations on the Obama Administration's cybersecurity efforts, on United States Citizenship and Immigration Services (USCIS) implementation of DHS privacy policy, and on privacy protections for the Department's use of social media. The agenda will be posted in advance of the meeting on the Committee's Web site at *http://www.dhs.gov/privacy.* Please note that the meeting may end early if all business is completed.

If you wish to attend the meeting, please plan to arrive by 12:45 p.m. to allow extra time to be processed through security, and bring a photo ID. The DHS Privacy Office encourages you to register for the meeting in advance by contacting Martha K. Landesberg, Executive Director, DHS Data Privacy and Integrity Advisory Committee, at *PrivacyCommittee@dhs.gov.* Advance registration is voluntary. The Privacy Act Statement below explains how DHS uses the registration information you may provide and how you may access or correct information retained by DHS, if any.

At the discretion of the Chair, members of the public may make brief (*i.e.,* no more than three minutes) oral presentations from 4 p.m. to 4:30 p.m. If you would like to make an oral presentation at the meeting, we request that you register in advance or sign up on the day of the meeting. The names and affiliations, if any, of individuals who address the Committee are included in the public record of the meeting. If you wish to provide written materials to be distributed to each member of the Committee in advance of the meeting, please submit them, preferably in electronic form to facilitate distribution, to Martha K. Landesberg, Executive Director, DHS Data Privacy and Integrity Advisory Committee, by March 1, 2010.

Information on Services for Individuals With Disabilities

For information on services for individuals with disabilities or to request special assistance, contact Martha K. Landesberg, Executive Director, DHS Data Privacy and Integrity Advisory Committee, as soon as possible.

Privacy Act Statement: DHS's Use of Your Information

Authority: DHS requests that you voluntarily submit this information under its following authorities: the Federal Records Act, 44 U.S.C. 3101; the FACA, 5 U.S.C. App. 2; and the Privacy Act of 1974, 5 U.S.C. 552a.

Principal Purposes: When you register to attend a DHS Data Privacy and Integrity Advisory Committee meeting, DHS collects your name, contact information, and the organization you represent, if any. We use this information to contact you for purposes related to the meeting, such as to confirm your registration, to advise you of any changes in the meeting, or to assure that we have sufficient materials

to distribute to all attendees. We may also use the information you provide for public record purposes such as posting publicly available transcripts and meeting minutes.

Routine Uses and Sharing: In general, DHS will not use the information you provide for any purpose other than the Principal Purposes, and will not share this information within or outside the agency. In certain circumstances, DHS may share this information on a case-by-case basis as required by law or as necessary for a specific purpose, as described in the DHS/ALL–002 Mailing and Other Lists System of Records Notice (November 25, 2008, 73 FR 71659).

Effects of Not Providing Information: You may choose not to provide the requested information or to provide only some of the information DHS requests. If you choose not to provide some or all of the requested information, DHS may not be able to contact you for purposes related to the meeting.

Accessing and Correcting Information: If you are unable to access or correct this information by using the method that you originally used to submit it, you may direct your request in writing to the DHS Deputy Chief FOIA Officer at *foia@dhs.gov.* Additional instructions are available at *http://www.dhs.gov/foia* and in the DHS/ALL–002 Mailing and Other Lists System of Records referenced above.

Dated: February 9, 2011.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2011–3447 Filed 2–14–11; 8:45 am]

BILLING CODE 9110–9L–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2010–0090]

Privacy Act of 1974; Department of Homeland Security/ALL—032 Official Passport Application and Maintenance Records System of Records

AGENCY: Privacy Office, DHS.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to establish a new Department of Homeland Security system of records titled, "Department of Homeland Security/ALL—032 Official Passport Application and Maintenance Records System of Records." This system of records will allow the Department of Homeland Security to collect and maintain a copy of an official passport application or maintenance record on Department of Homeland Security employees and former employees, including political appointees, civilian, and military personnel (and dependents and family members that accompany military members assigned outside the continental United States) assigned or detailed to the Department, individuals who are formally or informally associated with the Department, including advisory committee members, employees of other agencies and departments in the federal government, and other individuals in the private and public sector who are on official business with the Department, who in their official capacity, are applying for an official passport or updating their official passport records where a copy is maintained by the Department. Passport applications and updated passport records are transmitted to the Department of State for passport issuance. Official passport application and maintenance records maintained by the Department of State are covered by Department of State—26 Passport Records, January 9, 2008, found at *http://www.state.gov/m/a/ips/c25533.htm.* This newly established system will be included in the Department of Homeland Security's inventory of record systems.

DATES: Submit comments on or before March 17, 2011. This new system will be effective March 17, 2011.

ADDRESSES: You may submit comments, identified by docket number DHS–2010–0090 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 703–483–2999.
- *Mail:* Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.
- *Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.
- *Docket:* For access to the docket to read background documents or comments received go to *http://www.regulations.gov.*

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

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) proposes to establish a new DHS system of records titled, "DHS/ALL—032 Official Passport Application and Maintenance Records System of Records."

This system of records will allow DHS to collect and maintain a copy of an official passport application or maintenance record on DHS employees and former employees, including political appointees, civilian, and military personnel (and dependents and family members that accompany military members assigned outside the continental United States) assigned or detailed to the Department, individuals who are formally or informally associated with the Department, including advisory committee members, employees of other agencies and departments in the federal government, and other individuals in the private and public sector who are on official business with the Department, who in their official capacity, are applying for an official passport or updating their official passport records where a copy is maintained by the Department. Passport applications and updated passport records are transmitted to the Department of State for passport issuance. Official passport application and maintenance records maintained by the Department of State are covered by Department of State—26 Passport Records, January 9, 2008, found at *http://www.state.gov/m/a/ips/c25533.htm.* This newly established system will be included in the Department of Homeland Security's inventory of record systems.

DHS is authorized to implement this program primarily through 5 U.S.C. 301; 44 U.S.C. 3101; and 6 U.S.C. 112. This system has an affect on individual privacy that is balanced by the need to collect and maintain official passport records. Routine uses contained in this notice include sharing with the Department of Justice (DOJ) for legal advice and representation; to a congressional office at the request of an individual; to the National Archives and Records Administration (NARA) for records management; to contractors in support of their contract assignment to DHS; to agencies, organizations or individuals for the purpose of audit; to agencies, entities, or persons during a security or information compromise or breach; to an agency, organization, or individual when there could potentially

be a risk of harm to an individual; to an appropriate Federal, State, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order; to appropriate international authorities for administrative purposes relating to international travel where such disclosure is proper and consistent with the official duties of the traveling DHS individual; to the Department of State (DOS) when DHS individuals who, in their official capacity, are applying for an official passport or updating their official passport records where a copy is maintained by DHS; to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena from a court of competent jurisdiction; and to the news media in the interest of the public. A review of this system is being conducted to determine if the system of records collects information under the Paperwork Reduction Act (PRA).

This newly established system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which the U.S. Government collects, maintains, uses, and disseminates individuals' records. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors.

Below is the description of the DHS/ALL—032 Official Passport Application and Maintenance Records System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

System of Records

Department of Homeland Security (DHS)/ALL—032

SYSTEM NAME:

DHS/ALL—032 Official Passport Application and Maintenance Records System of Records.

SECURITY CLASSIFICATION:

Sensitive but Unclassified and Unclassified.

SYSTEM LOCATION:

Records are maintained at DHS and Component Headquarters in Washington, DC and field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DHS employees and former employees, including political appointees, civilian, and military personnel (and dependents and family members that accompany military members assigned outside the continental United States) assigned or detailed to the Department, individuals who are formally or informally associated with the Department, including advisory committee members, employees of other agencies and departments in the federal government, and other individuals in the private and public sector who are on official business with the Department, who in their official capacity, are applying for an official passport or updating their official passport records where a copy is maintained by the Department.

CATEGORIES OF RECORDS IN THE SYSTEM:

- Official passport books and passport cards, applications for official passport books and official passport cards, maintenance records in support of official passport books and official passport cards, and applications for additional visa pages, amendments, extensions, replacements, and/or renewals of official passport books or cards (including all information and materials submitted as part of or with all such applications) including, but not limited to:
  - Name, date of birth, social security number, contact information, and address;
- Applications for registration at American Diplomatic and Consular Posts as U.S. citizens or for issuance of Cards of Identity and Registration as U.S. Citizens;
- Consular Reports of Birth Abroad of United States citizens;
- Certificates of Witness to Marriage;
- Certificates of Loss of United States Nationality;
- Oaths of Repatriation;
- Consular Certificates of Repatriation;
- Reports of Death of an American Citizen Abroad;
- Cards of Identity and Registration as U.S. citizens; and
- Miscellaneous materials, which are documents and/or records maintained separately, if not in the application, including but not limited to the following types of documents:
  - Birth and baptismal certificates;
  - Medical, personal, and financial reports; and/or
  - Records of lost and stolen passports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 44 U.S.C. 3101; and 6 U.S.C. 112.

PURPOSE(S):

The purpose of this system is to collect and maintain a copy of an official passport application or maintenance record on DHS employees and former employees, including political appointees, civilian, and military personnel (and dependents and family members that accompany military members assigned outside the continental United States) assigned or detailed to the Department, individuals who are formally or informally associated with the Department, including advisory committee members, employees of other agencies and departments in the federal government, and other individuals in the private and public sector who are on official business with the Department, who in their official capacity, are applying for an official passport or updating their official passport records where a copy is maintained by the Department.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including U.S. Attorney Offices, or other federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. Any employee of DHS in his/her official capacity;

3. Any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or

4. The U.S. or any agency thereof, is a party to the litigation or has an interest in such litigation, and DHS determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which DHS collected the records.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or other federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. DHS has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) or harm to the individual that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To appropriate foreign government authorities for administrative purposes relating to foreign travel in order to facilitate official travel for the individual traveling.

I. To the Department of State when employees and former employees, including political appointees, civilian, and military personnel (and dependents and family members that accompany military members assigned outside the continental United States) assigned or detailed to the Department, individuals who are formally or informally associated with the Department, including advisory committee members, employees of other agencies and departments in the federal government, and other individuals in the private and public sector who are on official business with the Department, who in their official capacity, are applying for an official passport or updating their official passport records where a copy is maintained by DHS in order to receive an official passport.

J. To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena from a court of competent jurisdiction.

K. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The records are stored on magnetic disc, tape, digital media, and CD–ROM.

RETRIEVABILITY:

Records may be retrieved by any of the *Category of Records Listed* above.

SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RETENTION AND DISPOSAL:

Records within this system of records are maintained and disposed of in accordance with NARA approved General Records Schedule (GRS) 9 Item 5, Sections a–c. Application files including documents relating to the issuance of official passports, including requests for passports, transmittal letters, receipts, and copies of travel authorizations should be destroyed when 3 years old or upon separation of the employee, whichever is sooner in accordance with N1–GRS–91–1, item 5a. Annual reports concerning official passports including reports to the DOS concerning the number of official passports issued and related matters should be destroyed when 1 year old in accordance with N1–GRS–91–1, item 5b. Passport registers including registers and lists of agency personnel who have official passports should be destroyed when superseded or obsolete in accordance with N1–GRS–98–2, item 9. Official passports should be returned to the DOS upon expiration or upon the separation of the employee.

SYSTEM MANAGER AND ADDRESS:

Program Manager for Passport Processing (202–282–8020), Service Center, Office of the Chief Administrative Officer, Department of Homeland Security, Washington, DC 20528.

NOTIFICATION PROCEDURE:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the headquarters or component FOIA Officer, whose contact information can be found at *http://www.dhs.gov/foia* under "contacts." If an individual believes more than one component maintains Privacy Act records concerning him or her the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, 245 Murray Drive, SW., Building 410, STOP–0655, Washington, DC 20528.

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov* or 1–866–431–0486. In addition you should provide the following:

- An explanation of why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created;
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records; and
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above.

RECORD SOURCE CATEGORIES:

Records are obtained from Department employees and contractors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: January 21, 2011.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2011–3450 Filed 2–14–11; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2010–0067]

Privacy Act of 1974; Department of Homeland Security Federal Emergency Management Agency—002 Quality Assurance Recording System of Records

AGENCY: Privacy Office, DHS.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to establish a new Department of Homeland Security system of records titled, "Department of Homeland Security Federal Emergency Management Agency—002 Quality Assurance Recording System of Records." This system will record telephone calls made or received by Federal Emergency Management Agency employees and/or contractors at the Federal Emergency Management Agency's National Processing Service Centers and record the screen activity in the National Emergency Management Information System for both call-related customer service transactions and case review transactions not related to a telephone call. This system of records may contain personally identifiable information of disaster assistance applicants, which is covered by Department of Homeland Security Federal Emergency Management Agency—008 Disaster Recovery Assistance Files System of Records, September 24, 2009, and will contain the personally identifiable information of Federal Emergency Management Agency employees and/or contractors that provide customer service to them. The proposed system will be used for internal employee performance evaluations, training, and quality assurance purposes to improve customer service to disaster assistance applicants. This collection was previously covered by the DHS/All—020 Department of Homeland Security Internal Affairs system of records [November 18, 2008, 73 FR 67529]. The Department decided to provide additional transparency that a new specific System of Records Notice would be published. This newly established system will be included in the Department of Homeland Security's inventory of record systems.

DATES: Submit comments on or before March 17, 2011. This new system will be effective March 17, 2011.

ADDRESSES: You may submit comments, identified by docket number DHS–2010–0067 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 703–483–2999.
- *Mail:* Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.
- *Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change and may be read at *http://www.regulations.gov,* including any personal information provided.
- *Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Thomas R. McQuillan (202–646–3323), Privacy Officer, Federal Emergency Management Agency, Department of Homeland Security, Washington, DC 20478. For privacy issues please contact: Mary Ellen Callahan (703–235–0780), Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA) proposes to establish a new DHS system of records titled, "DHS/FEMA—002 Quality Assurance Recording System of Records." This collection was previously covered by the DHS/All—020 Department of Homeland Security Internal Affairs system of records [November 18, 2008, 73 FR 67529]. The Department decided to provide additional transparency that a new specific System of Records Notice would be published.

FEMA's Response and Recovery Bureau operates the Quality Assurance Recording System (QARS). The proposed system is for internal employee performance evaluations, training and quality assurance purposes to improve customer service to disaster assistance applicants. The purpose of QARS is consistent with FEMA's mission to improve its capability to respond to all hazards and support the citizens of our Nation. In addition, QARS will assist FEMA in accomplishing a critical objective presented in FEMA's 2008–2013 Strategic Plan. QARS will enable both FEMA's Quality Control Department and National Processing Service Center (NPSC) Supervisory staff to better monitor, evaluate, and assess its employees and/or contractors at the NPSCs, so that FEMA can improve customer service to those seeking disaster assistance.

Currently, FEMA conducts only real-time call monitoring of disaster assistance calls at its NPSCs for quality assurance and provides notice to disaster assistance applicants of such monitoring. The current procedure requires the reviewer to access four separate systems simultaneously to accomplish the quality monitoring process of one call: (1) The Call Management System (CMS) to identify the agent and his/her availability to be monitored on a live call; (2) the Systems Management Server (SMS) to capture the agents desktop screen as they perform work in National Emergency Management Information System (NEMIS); (3) Avaya Softphone to log into the desktop phone of the agent being monitored; and (4) the Quality Control Application to conduct the evaluation process and complete the form and house the quality score of the agent being monitored. The current call monitoring procedure places laborious requirements upon the Quality Control reviewer, resulting in a less efficient, more time consuming evaluation process that may make it more difficult for the Quality Control department to achieve its goal to evaluate a minimum of five calls and/or case reviews, per employee/contractor during a two-week pay period.

QARS will allow FEMA to increase the cost-effectiveness of its quality evaluation processes. FEMA can evaluate more calls, encompassing various call types across all hours of operation while reducing the subjectivity associated with real-time, live call monitoring. With the ability of QARS to record and playback calls at the discretion of the Supervisor and/or Quality Control reviewer, the employee/contractor can listen and learn accordingly during the evaluation process. The efficiency and flexibility of QARS makes it a superior tool for conducting employee/contractor evaluations and quality assurance. In addition, using QARS to validate the accuracy of FEMA employees' and contractors' inputs into NEMIS ensures that disaster assistance benefits are received by eligible individuals and are routed appropriately, thereby improving FEMA's efficiency and customer service.

The evaluations stemming from the recordings in QARS are used to determine training/coaching opportunities for FEMA employees and/or contractors, which will impact continued employment qualifications and/or promotion within FEMA. Contract staff calls are subject to evaluation by FEMA Supervisory and/or quality control staff according to the guidelines and provisions written in the contract between FEMA and the contracting entity. QARS may include the personally identifiable information (PII) of disaster assistance applicants from the Federal Emergency Management Agency—008 Disaster Recovery Assistance (DRA) Files system of records [September 24, 2009, 74 FR 48763], which FEMA employees and/or contractors access via NEMIS when interacting with disaster assistance applicants or during case review. The supervisory review of agent calls and casework within QARS includes validating that applicant PII is entered into NEMIS accurately; therefore, supervisors must have access to this information while conducting their review. While QARS cannot mask information contained with the screen captures or audio files, access to QARS is role-based and limited to only those employees/contractors and supervisors with a "need to know." Although QARS recordings may include the disaster assistance applicant's PII, recordings are only retrievable using FEMA employee/contractor information. FEMA will access the information in QARS using the employee/contractor's name and/or their user identification number. The system will not retrieve information by the individual disaster applicant. Evaluated records will be maintained for six years, unevaluated calls will be retained for no more than 45 days.

The collection of the employee/contractor quality assurance information is covered by the DHS/All—020 Department of Homeland Security Internal Affairs system of records [November 18, 2008, 73 FR 67529]. In order to provide more transparency to the program, DHS/FEMA is publishing a new system of records.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates individuals' records. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR part 5.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency recordkeeping practices transparent, to notify individuals regarding the uses to their records are put, and to assist individuals to more easily find such files within the agency. Below is the description of the DHS/FEMA–002 Quality Assurance Recording System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

SYSTEM OF RECORDS

DHS/FEMA–002.

SYSTEM NAME:

Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA)–002 Quality Assurance Recording System (QARS).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Emergency Management Agency, Texas National Processing Service Center, Denton, TX 76208.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

FEMA employees and/or contractors at FEMA's National Processing Service Centers who are making telephone calls to, or receiving telephone calls from, and those FEMA employees and/or contractors engaged in the case review of disaster assistance applications not related to a telephone call to or from a disaster assistance applicant.

CATEGORIES OF RECORDS IN THE SYSTEM:

- Voice recordings of telephone calls between FEMA employees and/or contractors and disaster assistance applicants;
- A "quality score" generated in QARS for each call or case processing activity that is evaluated by a FEMA supervisor or Quality Control Specialist, assessing the level of customer service provided by the FEMA employee/contractor to the disaster assistance applicant;
- FEMA supervisor or Quality Control Specialists name who conducted the assessment;
- FEMA supervisor or Quality Control Specialists user identification number who conducted the assessment;
- FEMA employee name;
- FEMA user identification number;
- FEMA contractor name; and
- FEMA contractor user identification number.

Tracking of FEMA employee/contractor activity in NEMIS related to call recordings and/or case review processing not related to a phone call may include the following disaster applicant information:

- Applicant's name;
- Home address;
- Social Security number;
- Home phone number;
- Current mailing address; and
- Personal financial information including applicant's bank name, bank account information, insurance information and individual or household income.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Sec. 301; Federal Sector Labor Management Relations Act, Pub. L. 95–454 as amended, codified in 5 U.S.C. Sec. 4302, and 5 U.S.C. 7106(a); Pub. L. 109–295, title VI, Sec. 696, Oct. 4, 2006, 120 Stat. 1460, as codified in 6 U.S.C. 795; Fraud, Waste, and Abuse Controls; 29 U.S.C Sec. 204(b), Appointment, selection, classification, and promotion of employees by Administrator; FEMA Directive 3100.1 (M) Merit Promotion Plan; FEMA Directive 3700.1 (I) Performance Management System (PMS) for General Schedule and Prevailing Rate Employees; FEMA Directive 3700.2 (M) Employee Performance System.

PURPOSE(S):

The proposed system will be used for internal employee and/or contractor performance evaluations, training, and quality assurance purposes to improve customer service to disaster assistance applicants.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (including United States Attorney Offices) or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. Any employee of DHS in his/her official capacity;

3. Any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and DHS determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which DHS collected the records.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration or other federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) or harm to the individual that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored electronically in secure facilities behind a locked door. The records are stored on, tape and digital media.

RETRIEVABILITY:

Records in QARS will be retrieved, and are only retrievable, by the FEMA employee and/or contractor's name and user identification number. This system cannot be used to retrieve by disaster applicant information. Disaster applicant information is covered by Department of Homeland Security, Federal Emergency Management Agency DHS/FEMA–008 Disaster Recovery Assistance (DRA) Files system of

records [September 24, 2009, 74 FR 48763].

SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. The access granted is based upon an individual's position of responsibilities for "official use" only. FEMA employees and/or contractors are allowed access to the data as a function of their specific job assignments within their respective organizations and who have appropriate clearances or permissions.

RETENTION AND DISPOSAL:

FEMA's "*Request for Records Disposition Authority*" was submitted to NARA (Job Number N1–311–08–01) on March 27, 2008, and approved by NARA on June 27, 2008. The retention period for information maintained in QARS depends on the use of the data. Records within QARS that are used in an evaluation of a FEMA Customer Service Representative or contractor will be retained for six years, pursuant to General Records Schedule "FEMA Series Disaster Assistance Programs-15–1." Records that are not used in an evaluation of a FEMA Customer Service Representative or contractor will be purged from the secured servers within 45 days, per General Records Schedule "FEMA Series Disaster Assistance Programs-15–2." QARS data is stored separately from the applicant information stored in NEMIS. NEMIS has its own independent retention policy.

SYSTEM MANAGER AND ADDRESS:

Manager (940–891–8500), Enterprise Performance Information Management Section, Federal Emergency Management Agency, Texas National Processing Service Center, Denton, TX 76208.

NOTIFICATION PROCEDURE:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the FEMA FOIA Officer, whose contact information can be found at *http://www.dhs.gov/foia* under "contacts."

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov* or 1–866–431–0486. In addition you should provide the following:

- An explanation of why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created;
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records; and
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above.

RECORD SOURCE CATEGORIES:

Records are obtained from FEMA employees and contractors in putting data received from disaster applicants and from those FEMA employees and/or contractors engaged in the case review of quality of customer service provided to disaster assistance applications by FEMA employees and contractors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: January 19, 2011.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2011–3449 Filed 2–14–11; 8:45 am]

BILLING CODE 9110–17–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. ICEB–2011–0001]

Privacy Act of 1974; U.S. Immigration and Customs Enforcement, DHS/ICE–004 Bond Management Information System (BMIS) System of Records

AGENCY: Privacy Office; DHS.

ACTION: Notice of amended Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to amend a U.S. Immigration and Customs Enforcement system of records titled DHS/ICE–004 Bond Management Information System (Dec. 21, 2009) to expand the categories of records and system purpose, and to modify an existing routine use. An existing category of records has been expanded to include records collected, created, or maintained for income tax purposes. The purpose has been updated to include the withholding of income taxes from payments made to bond obligors. A routine use has been modified to clarify the scope of disclosures made from the system to the U.S. Department of the Treasury.

DATES: The established system of records will be effective March 17, 2011. Written comments must be submitted on or before March 17, 2011.

ADDRESSES: You may submit comments, identified by ICEB–2011–0001 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 703–483–2999.
- *Mail:* Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.
- *Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.
- *Docket:* For access to the docket to read background documents or comments received go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Lyn Rahilly, Privacy Officer, U.S. Immigration and Customs Enforcement, 500 12th Street, SW., Mail Stop 5004, Washington, DC 20536 (202–732–3300), or Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, U.S. Department

of Homeland Security, Washington, DC 20528 (703–235–0780).

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, the Department of Homeland Security (DHS) proposes to amend a U.S. Immigration and Customs Enforcement (ICE) system of records titled DHS/ICE–004 Bond Management Information System (74 FR 57891, Dec. 21, 2009) expand the categories of records, purposes, and an existing routine use. This system of records contains paper and electronic records maintained by ICE to support its immigration bond administration and financial management activities related to the immigration bonds that are posted for detained aliens.

Some of the information in this system of records is maintained in BMIS, an immigration bond management database used by the ICE Office of Financial Management to track the life cycle of immigration bonds from the time an individual posts the bond at an ICE Enforcement and Removal Operations (ERO) field office until the bond is considered closed. (BMIS was formerly known as BMIS–Web.) The BMIS PIA was recently updated to reflect the initiation of income tax withholding from interest payments made to individuals who post a cash immigration bond. These withholding payments are mandatory for foreign nationals, and in some cases may occur for U.S. citizens or lawful permanent residents. To properly implement and document these withholding requirements, ICE will also be collecting and/or reporting income tax-related information using various IRS forms. The BMIS PIA Update is available on the Department of Homeland Security (DHS) Privacy Office Web site at *http://www.dhs.gov/privacy.*

Accordingly, DHS is modifying the BMIS system of records in order to support and provide public notice in advance of the initiation of income tax withholdings and the associated changes to BMIS. An existing category of records has been expanded to include information ICE collects, creates or maintains for income tax purposes. The purpose of the system of records has been expanded and clarified to include the payment and reporting of interest income; calculation, withholding, and reporting of income taxes; and the collection or filing of associated income tax forms. Finally, routine use H has been modified to expand and clarify the information that ICE may disclose from the system of records to the U.S. Department of the Treasury.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR part 5.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses to which personally identifiable information is put, and to assist individuals to more easily find such files within the agency. Below is the description of the BMIS system of records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this amended system of records to the Office of Management and Budget and to Congress.

System of Records

DHS/ICE–004.

SYSTEM NAME:

Bond Management Information System (BMIS).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained at U.S. Immigration and Customs Enforcement (ICE) Headquarters in Washington, DC; ICE Office of Financial Management facilities in Williston, Vermont; and ICE field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include: Individuals who post cash immigration bonds for aliens (known as obligors); aliens for whom an immigration bond is posted (known as bonded aliens); individuals who arrange for the posting of surety bonds for aliens (known as indemnitors); individual bond agents who post surety bonds; and notaries public and attorneys.

CATEGORIES OF RECORDS IN THE SYSTEM:

For the obligor: Name; Social Security Number/Tax Identification Number; address; phone number; U.S. citizenship or immigration status; and government-issued identification (type and number) shown at the time the bond is posted. Also, income tax-related information about the obligor, such as taxpayer status, rate of withholding, income taxes withheld, income reporting (interest paid), tax treaty status, foreign tax identification number, country of residence, and information collected or reported on various income tax forms, such as IRS Forms W–9, W–8BEN, 945, 1042, 1042–S, and 1099–INT.

For the bonded alien: Name; alien number; location (while in detention); address(es) and phone number of residence upon release; date and country of birth; nationality; and date and port of arrival.

For the indemnitor: Name; address(es); and phone number.

For the bonding agent: Name; Tax Identification Number; address(es); and phone number.

General bond information, including: Bond number; bond amount; securities pledged; bond types; bond status; location and date of posted bond; dates for bond-related activities, such as declaration of breach; names and titles of DHS officials that approve, cancel, or declare breaches of bonds; names and contact information for notary public and attorney in fact; information such as dates, forms, status and outcome, concerning motions to reconsider a breach or cancellation of bonds; and information such as dates, forms, status and outcome, about bond-related appeals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 103, 213, 236, 240B, and 293 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103, 1183, 1226, 1229c, and 1363, respectively).

PURPOSE(S):

The purpose of this system is to maintain records related to the administration and financial management operations of ICE's

immigration bond program. Immigration bond administration includes the issuance, maintenance, cancellation, and revocation of bonds. Financial management operations include collection, reimbursement or forfeiture of the bond principal; calculation, payment and reporting of interest income; calculation, withholding, and reporting of income taxes; and the collection or filing of associated income tax forms.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice or other federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when (1) DHS or any component thereof; (2) any employee of DHS in his/her official capacity; (3) any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or (4) the United States or any agency thereof, is a party to the litigation or has an interest in such litigation; and DHS determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which DHS collected the records.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration or other federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. ICE suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. DHS has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) that rely upon the compromised information, or harm to the individual; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To the U.S. Department of the Treasury and its bureaus to carry out financial transactions and any debt-or tax-related reporting, withholding, collection, and/or processing activities required or permitted by federal law, regulation, or policy.

I. To the Department of Justice, the U.S. Treasury Department, other appropriate federal agencies, state insurance regulators, credit bureaus, debt collection agencies, legal representatives for surety companies and bonding agencies, and insurance investigators to provide information relevant to (1) investigations of an agent or bonding agency that posts surety bonds, or (2) activities related to collection of unpaid monies owed to the U.S. Government on immigration bonds.

J. To agencies, individuals, or entities as necessary to locate individuals who are owed money or property connected with the issuance of an immigration bond.

K. To an individual or entity seeking to post or arrange, or who has already posted or arranged, an immigration bond for an alien to aid the individual or entity in (1) identifying the location of the alien, or (2) posting the bond, obtaining payments related to the bond, or conducting other administrative or financial management activities related to the bond.

L. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with legal counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies in accordance with 31 U.S.C. 3711(e).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The records are stored on magnetic disc, tape, digital media, and CD–ROM.

RETRIEVABILITY:

Records may be retrieved by any of the following: bond number, Social Security or Tax Identification Numbers (SSN/TIN), alien name, alien number, obligor name, surety company name, or location and date bond was posted.

SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer systems containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions. The system maintains a real-time auditing function of individuals who access electronic records. Additional safeguards may vary by component and program.

RETENTION AND DISPOSAL:

Under the existing retention schedule, information is retained for six years and three months after the bond is closed or cancelled and the collateral is returned to the obligor. Copies of the Form I–352 (Immigration Bond) are placed into the alien's A-File and maintained for the life of that file (75 years).

SYSTEM MANAGER AND ADDRESS:

Director, Financial Systems Modernization, 800 K Street, NW., Washington, DC 20536; Chief, Bond Management Unit, Office of Enforcement and Removal Operations, 500 12th Street, SW., Washington, DC 20536.

NOTIFICATION PROCEDURE:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the component's FOIA Officer, whose contact information can be found at *http://www.dhs.gov/foia* under "contacts." If an individual believes more than one component maintains Privacy Act records concerning him or her the individual may submit the request to the Chief Privacy Officer, Department of Homeland Security, 245 Murray Drive, SW., Building 410, STOP–0655, Washington, DC 20528.

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty or perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose form the Director, Disclosure and FOIA, *http://www.dhs.gov* or 1–866–431–0486. In addition you should provide the following:

- An explanation of why you believe the Department would have information on you,
- Identify which component(s) of the Department you believe may have the information about you,
- Specify when you believe the records would have been created,
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records,
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) will not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above.

RECORD SOURCE CATEGORIES:

Information is obtained from individuals, entities, indemnitors, surety companies, and bonding agencies and agents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: January 19, 2011.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2011–3448 Filed 2–14–11; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2010–0981]

Collection of Information Under Review by Office of Management and Budget: OMB Control Number: 1625–0073

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the, Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0073, Alteration of Unreasonable Obstructive Bridges. 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: Comments must reach the Coast Guard and OIRA on or before March 17, 2011.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2010–0981] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT) and/or to OIRA. To avoid duplicate submissions, please use only one of the following means:

(1) *Online:* (a) To Coast Guard docket at *http://www.regulation.gov.* (b) To OIRA by e-mail via: *OIRA-submission@omb.eop.gov.*

(2) *Mail:* (a) DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. (b) To OIRA, 725 17th Street, NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Hand Delivery:* To DMF address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* (a) To DMF, 202–493–2251. (b) To OIRA at 202–395–6566. 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: Ms. Kenlinishia Tyler, Office of Information Management, telephone 202–475–3652 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:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a

Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collections. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection 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 collection; (3) ways to enhance the quality, utility, and clarity of information subject to the collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. 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 2010–0981], and must be received by March 17, 2011. 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–2010–0981], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (via *http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. 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. To submit your comment online, go to *http://www.regulations.gov,* and type "USCG–2010–0981" in the "Keyword" box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG–2010–0981" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: USCG–2010–0981.

Privacy Act

Anyone can search the electronic form of 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 a Privacy Act statement regarding Coast Guard 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 has published the 60-day notice (75 FR 67990, November 4, 2010) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments.

Information Collection Request

Title: Alteration of Unreasonable Obstructive Bridges.

OMB Control Number: 1625–0073.

Type of Request: Extension of a previously approved collection.

Respondents: Public and private owners of bridges over navigable waters of the United States.

Abstract: The collection of information is a request to determine if the bridge is unreasonably obstructive.

Forms: None.

Burden Estimate: The estimated burden remains the same at 240 hours a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: February 8, 2011.

R.E. Day,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2011–3320 Filed 2–14–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2011–0052]

Eastern Great Lakes Area Maritime Security Committee; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Solicitation for membership.

SUMMARY: This notice solicits applications for membership in the Area Maritime Security Committee (AMSC), Eastern Great Lakes, and its five regional sub-committees: Northeast Ohio Region, Northwestern Pennsylvania Region, Western New York Region, Lake Ontario Region and St. Lawrence Region.

DATES: Requests for membership should reach the U.S. Coast Guard Captain of the Port, Buffalo, on March 17, 2011.

ADDRESSES: Submit applications to the Captain of the Port Buffalo, Attention Regional Executive Coordinator, 1 Fuhrmann Boulevard, Buffalo, NY 14203–3189.

FOR FURTHER INFORMATION CONTACT: For questions about submitting an application, or about the AMSC in general, contact Mr. Timothy Balunis, Planning Department, U.S. Coast Guard Sector Buffalo, 1 Fuhrmann Boulevard, Buffalo, NY 14203–3189; 716–843–9559. For questions about a particular regional sub-committee contact: The Northeast Ohio Region Executive Coordinator, Mr. Peter Killmer, at 216–937–0136; the Northwestern Pennsylvania Region Executive Coordinator, Mr. Joseph Fetscher, at 216–937–0126; the Western New York Region Executive Coordinator, Mr.

Timothy Balunis, at 716–843–9559; the Lake Ontario Region Executive Coordinator, Mr. Ralph Kring, at 315–343–1217; and the St. Lawrence Region Executive Coordinator, Mr. Ralph Kring, at 315–343–1217.

SUPPLEMENTARY INFORMATION:

Authority

Section 102 of the Maritime Transportation Security Act (MTSA) of 2002 (Pub. L. 107–295) added section 70112 to Title 46 of U.S. Code, and authorized the Secretary of the Department in which the Coast Guard is operating to establish AMSCs for any port area of the United States. (*See* 33 U.S.C. 1226; 46 U.S.C. 70112(a)(2); 33 CFR 1.05–1, 6.01; Department of Homeland Security Delegation No. 0170.1). The MTSA includes a provision exempting these AMSCs from the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2 (Pub. L. 92–436). The AMSCs shall assist the Captain of the Port in the development, review, update, and exercising of the AMS Plan for their area of responsibility. Such matters may include, but are not limited to: Identifying critical port infrastructure and operations; identifying risks (threats, vulnerabilities, and consequences); determining mitigation strategies and implementation methods; developing and describing the process to continually evaluate overall port security by considering consequences and vulnerabilities, how they may change over time, and what additional mitigation strategies can be applied; and providing advice to, and assisting the Captain of the Port in, developing the AMS Plan.

AMSC Composition

The composition of an AMSC, to include the AMSC Eastern Great Lakes and its sub-committees, is controlled by 33 CFR 103.305. Accordingly, members may be selected from the Federal, Territorial, or Tribal government; the State government and political subdivisions of the State; local public safety, crisis management, and emergency response agencies; law enforcement and security organizations; maritime industry, including labor; other port stakeholders having a special competence in maritime security; and port stakeholders affected by security practices and policies. Also, members must have at least 5 years of experience related to maritime or port security operations.

AMSC Eastern Great Lakes Vacancies

Currently, there are multiple vacancies on the Eastern Great Lakes AMSC. Vacancies for each of the five regional subcommittees are as follows:

(1) Northeast Ohio Region (2 members): Executive Board member representing local MTSA regulated, 33 CFR part 105, facilities of Northeast Ohio. Also, an Executive Board member representing the maritime (on-water) law enforcement community of Northeast Ohio (*e.g.* State of Ohio Department of Natural Resources, County Sheriff's Department, municipal maritime police, etc.);

(2) Northwestern Pennsylvania Region: No openings;

(3) Western New York Region (1 member): Executive Board member representing local MTSA regulated, 33 CFR part 104, vessels of Western New York;

(4) Lake Ontario Region: No openings; and

(5) St. Lawrence Region (1 member): Executive Board member to serve as Chairperson of the subcommittee and concurrently as member of the Eastern Great Lakes AMSC when convened by the FMSC.

Applying for AMSC Membership

Those seeking membership are not required to submit formal applications. Because we have an obligation to ensure that a specific number of members have the requisite maritime security experience, however, we encourage the submission of resumes that highlight experience in the maritime and security industries.

Applicants may be required to pass an appropriate security background check before appointment to the committee or one of its sub-committees. The term of office for each vacancy is 5 years. However, a member may serve one additional term of office. Members will not receive any salary or other compensation for their service on the AMSC. Applicants must register and remain active as Coast Guard HOMEPORT users if appointed.

In support of the policy of the USCG on gender and ethnic diversity, we encourage qualified men and women of all racial and ethnic groups to apply.

Dated: January 31, 2011.

R.S. Burchell,

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

[FR Doc. 2011–3324 Filed 2–14–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Andean Trade Preference Act

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Revision of an existing information collection: 1651–0091.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Andean Trade Preference Act. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (75 FR 73118) on November 29, 2010, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before March 17, 2011.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

SUPPLEMENTARY INFORMATION: U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L. 104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component,

including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Andean Trade Preference Act.

OMB Number: 1651–0091.

Form Number: 449.

Abstract: The information collected is to be used by CBP officers to document preferential tariff treatment under the provisions of the Andean Trade Preference Act (ATPA) and the Andean Trade Promotion and Drug Eradication Act (ATPDEA), as codified in 19 U.S.C. 3201 through 3206. The ATPA Certificate of Origin format is found under the CBP regulations, 19 CFR 10.201–10.207. The type of information collected includes the processing operations performed on articles, the material produced in a beneficiary country or in the U.S., and a description of those processing operations. CBP has also developed a new form, CBP Form 17, Andean Trade Preference Act (ATPA) Declaration, which may be used when claiming preferential treatment under ATPA.

The ATPDEA regulations are found in 19 CFR 10.251–10.257. CBP Form 449, Andean Trade Promotion and Drug Eradication Act (ATPDEA) Certificate of Origin is used to claim preferential duty treatment under ATPDEA. This form can only be used when claiming ATPDEA preferential treatment on the goods listed on the back of the form.

Current Actions: This submission is being made to extend the expiration date and to revise this information collection by adding CBP Form 17, Andean Trade Preference Act (ATPA) Declaration. There is no change to the information being collected.

Type of Review: Extension.

Affected Public: Businesses.

ATPA Certificate of Origin:

Estimated Number of Respondents: 2,133.

Estimated Number of Annual Responses per Respondent: 2.

Estimated Number of Total Annual Responses: 4,266.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 711.

ATPDEA Certificate of Origin:

Estimated Number of Respondents: 233.

Estimated Number of Annual Responses per Respondent: 7.

Estimated Number of Total Annual Responses: 1,631.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 815.

Dated: February 10, 2011.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2011–3395 Filed 2–14–11; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: e-Allegations Submission

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing information collection: 1651–0131.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: e-Allegations Submission. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (75 FR 77892) on December 14, 2010, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before March 17, 2011.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

SUPPLEMENTARY INFORMATION: U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L. 104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: e-Allegations Submission.

OMB Number: 1651–0131.

Abstract: In the interest of detecting trade violations to customs laws, Customs and Border Protection (CBP) established the e-Allegations Web site to provide a means for concerned members of the trade community to confidentially report violations to CBP. The e-Allegations site allows the public to submit pertinent information that assists CBP in its decision whether or not to pursue the alleged violations by initiating an investigation and how to best proceed in the case that an investigation is warranted. The information collected includes the name, phone number, and e-mail address of the member of the trade community reporting the alleged violation. It also includes a description of the alleged violation and the name and address of the potential violator. The e-Allegations Web site is accessible at: *https://apps.cbp.gov/eallegations/.*

Current Actions: This submission is being made to extend the expiration date with a change to the burden hours. There is no change to the information being collected.

Type of Review: Extension (with change).

Affected Public: Businesses, Individuals.

Estimated Number of Respondents: 1,600.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 1,600.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 400.

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC 20229–1177, at 202–325–0265.

Dated: February 10, 2011.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2011–3393 Filed 2–14–11; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Establishment of the Wildland Fire Executive Council

AGENCY: Department of the Interior.

ACTION: Notice.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2, and with the concurrence of the General Services Administration, the Department of the Interior and the Department of Agriculture are announcing the establishment of the Wildland Fire Executive Council (WFEC). The purpose of the WFEC is to provide advice on the coordinated national level wildland fire policy leadership, direction, and program oversight in support to the Wildland Fire Leadership Council.

FOR FURTHER INFORMATION CONTACT: Kirk Rowdabaugh, Office of Wildland Fire Coordination, 1849 C Street, NW., Room 2660, Washington, DC 20240; (202) 606–3447.

SUPPLEMENTARY INFORMATION: The WFEC is being established as a discretionary advisory committee under the authorities of the Secretary of the Interior and Secretary of Agriculture, in furtherance of 43 U.S.C. 1457 and provisions of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a–742j), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee), and the National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*) and in accordance with the provisions of the FACA, as amended, 5 U.S.C. App. 2. The Secretary of the Interior and Secretary of Agriculture certify that the formation of the WFEC is necessary and is in the public interest.

The WFEC will conduct its operations in accordance with the provisions of the FACA. It will report to the Secretary of the Interior and Secretary of Agriculture through the Wildland Fire Leadership Council, which is comprised of, in part, the Assistant Secretary for Policy, Management and Budget and the Directors of National Park Service, the U.S. Fish and Wildlife Service, the Bureau of Land Management, the Bureau of Indian Affairs, and the U.S. Geological Survey for the Department of the Interior, and for the Department of Agriculture, the Under Secretary for Natural Resources and Environment, the Deputy Under Secretary for Natural Resources and Environment, and the Chief of the Forest Service.

The Department of the Interior's Office of Wildland Fire Coordination will provide support for the WFEC.

The purpose of the WFEC is to provide advice on the coordinated national level wildland fire policy leadership, direction, and program oversight in support to the Wildland Fire Leadership Council.

The WFEC will meet approximately 6–12 times a year. The Secretary of the Interior and the Secretary of Agriculture will appoint members on a staggered term basis for terms not to exceed 3 years.

Members of the WFEC shall be composed of representatives from the Federal government, and from among, but not limited to, the following interest groups. (1) Director, Department of the Interior, Office of Wildland Fire Coordination; (2) Director, United States Department of Agriculture, Forest Service, Fire and Aviation Management; (3) Assistant Administrator, U.S. Fire Administration; (4) National Wildfire Coordinating Group; (5) National Association of State Foresters; (6) International Association of Fire Chiefs; (7) Intertribal Timber Council; (8) National Association of Counties; (9) National League of Cities; and (10) National Governors' Association.

No individual who is currently registered as a Federal lobbyist is eligible to serve as a member of the WFEC.

Certification Statement: I hereby certify that the establishment of the Wildland Fire Executive Council is necessary and is in the public interest in connection with the performance of duties imposed on the Department of the Interior and the Department of Agriculture under 43 U.S.C. 1457 and provisions of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a–742j), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee), and the National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*).

Ken Salazar,

Secretary of the Interior.

Dated: February 3, 2011.

Thomas Vilsack,

Secretary of Agriculture.

[FR Doc. 2011–3350 Filed 2–14–11; 8:45 am]

BILLING CODE 4310–J4–P

DEPARTMENT OF THE INTERIOR

National Park Service

[1730–SZM]

Cape Cod National Seashore, South Wellfleet, MA; Cape Cod National Seashore Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Two Hundred Seventy-Eighth notice of meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, Section 10) of a meeting of the Cape Cod National Seashore Advisory Commission.

DATES: The meeting of the Cape Cod National Seashore Advisory Commission will be held on March 14, 2011, at 1 p.m.

ADDRESSES: The Commission members will meet in the meeting room at Headquarters, 99 Marconi Station, Wellfleet, Massachusetts.

SUPPLEMENTARY INFORMATION: The Commission was reestablished pursuant to Public Law 87–126 as amended by Public Law 105–280. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The regular business meeting is being held to discuss the following:

1. Adoption of Agenda.
2. Approval of Minutes of Previous Meeting (January 10, 2011).
3. Reports of Officers.
4. Reports of Subcommittees.
5. Superintendent's Report. Update on Dune Shacks. Improved Properties/

Town Bylaws. Herring River Wetland Restoration. Wind Turbines/Cell Towers. Flexible Shorebird Management. Highlands Center Update. Alternate Transportation funding. Ocean stewardship topics. Climate Friendly Park program update. 50th Anniversary. Advisory Commission Membership.

6. Old Business.

7. New Business. Cape Cod Commission review of herbicide use.

8. Date and agenda for next meeting.

9. Public comment and

10. Adjournment.

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to Commission members.

Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent prior to the meeting. 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.

FOR FURTHER INFORMATION CONTACT: Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, 99 Marconi Site Road, Wellfleet, MA 02667.

Dated: February 3, 2011.

George E. Price, Jr.,

Superintendent.

[FR Doc. 2011–3256 Filed 2–14–11; 8:45 am]

BILLING CODE 4310–WV–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *In Re Certain Display Devices, Including Digital Televisions and Monitors II,* DN 2787; the Commission is soliciting comments on any public interest issues raised by the complaint.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, Acting Secretary to the Commission, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint filed on behalf of Sony Corporation on February 9, 2011. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain display devices, including digital televisions and monitors II. The complaint names as respondents LG Electronics, Inc. of Seoul, Korea and LG Electronics U.S.A., Inc. of Englewood, NJ.

The complainant, proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five pages in length, on any public interest issues raised by the complaint. Comments should address whether issuance of an exclusion order and/or a cease and desist order in this investigation would negatively affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the potential orders;

(iii) Indicate the extent to which like or directly competitive articles are produced in the United States or are otherwise available in the United States, with respect to the articles potentially subject to the orders; and

(iv) Indicate whether Complainant, Complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to an exclusion order and a cease and desist order within a commercially reasonable time.

Written submissions must be filed no later than by close of business, five business days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Submissions should refer to the docket number ("Docket No. 2787") in a prominent place on the cover page and/or the first page. The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50(a)(4) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50(a)(4)).

By order of the Commission.

Issued: February 9, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011–3336 Filed 2–14–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–459 (Third Review)]

Polyethylene Terephthalate (Pet) Film From Korea

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determination to conduct a full five-year review and scheduling of a full five-year review concerning the antidumping duty order on polyethylene terephthalate (PET) film from Korea.

SUMMARY: The Commission hereby gives notice that it will proceed with a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping order on PET film from Korea would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time. The Commission also hereby gives notice of the scheduling of a full review concerning the antidumping order on PET film from Korea. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* February 8, 2011.

FOR FURTHER INFORMATION CONTACT: Joanna Lo (202–205–1888), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On December 6, 2010, the Commission determined that responses to its notice of institution of the subject five-year review were such that a full review pursuant to section 751(c)(5) of the Act should proceed. The Commission found that both the domestic and respondent interested party group responses to its notice of institution (75 FR 53711, September 1, 2010) were adequate. A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in the review and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in this review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the review need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission's notice of institution of the review need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the review will be placed in the nonpublic record on June 8, 2011, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the review beginning at 9:30 a.m. on June 28, 2011, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 22, 2011. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on June 23, 2011, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to the review may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is June 17, 2011. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is July 6, 2011; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the review may submit a written statement of information pertinent to the subject of the review on or before July 6, 2011. On August 4, 2011, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 8, 2011, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be

accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: February 8, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011–3327 Filed 2–14–11; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–718 (Third Review)]

Glycine From China

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determination to conduct a full five-year review and scheduling of a full five-year review concerning the antidumping duty order on glycine from China.

SUMMARY: The Commission hereby gives notice that it will proceed with a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty order on glycine from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission also hereby gives notice of the scheduling of the full review concerning the antidumping duty order on glycine from China. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* February 9, 2011.

FOR FURTHER INFORMATION CONTACT: Stefania Pozzi Porter (202–205–3177), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On January 4, 2011, the Commission determined that responses to its notice of institution of the subject five-year review were such that a full review pursuant to section 751(c)(5) of the Act should proceed. The Commission found that the domestic interested party group response to its notice of institution (75 FR 62141, October 7, 2010) was adequate and that the respondent interested party group response was inadequate.[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in the review and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in this review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the review need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission's notice of institution of the review need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the review will be placed in the nonpublic record on June 7, 2011, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the review beginning at 9:30 a.m. on June 30, 2011, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 23, 2011. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on June 27, 2011, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to the review may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is June 16, 2011. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is July 11, 2011; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the

[1] Chairman Deanna Tanner Okun and Commissioners Daniel R. Pearson and Shara L. Aranoff concluded that the domestic group response for this review was adequate and the respondent group response was inadequate and voted for a full review. Vice Chairman Irving R. Williamson and Commissioners Charlotte R. Lane and Dean A. Pinkert concluded that the domestic group response for this review was adequate and the respondent group response was inadequate and voted for an expedited review.

review may submit a written statement of information pertinent to the subject of the review on or before July 11, 2011. On August 4, 2011, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 8, 2011, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: February 9, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011–3326 Filed 2–14–11; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–388–391 and 731–TA–817–821 (Second Review)]

Cut-to-Length Carbon Steel Plate From India, Indonesia, Italy, Japan and Korea

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determination to conduct full five-year reviews concerning the countervailing duty orders on cut-to-length carbon steel plate from India, Indonesia, Italy, and Korea and the antidumping duty orders on cut-to-length carbon steel plate from India, Indonesia, Italy, Japan, and Korea.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the countervailing duty orders on cut-to-length carbon steel plate from India, Indonesia, Italy, and Korea and the antidumping duty orders on cut-to-length carbon steel plate from India, Indonesia, Italy, Japan, and Korea would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* February 4, 2011.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On February 4, 2011, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act. The Commission found that the domestic interested party group response to its notice of institution (75 FR 67108, November 1, 2010) was adequate, and that the respondent interested party group responses with respect to Italy, Japan, and Korea were adequate and decided to conduct full reviews with respect to the antidumping duty orders concerning cut-to-length carbon steel plate from Italy, Japan, and Korea, and the countervailing duty orders concerning cut-to-length carbon steel plate from Italy and Korea. The Commission found that the respondent interested party group responses with respect to India and Indonesia were inadequate. However, the Commission determined to conduct full reviews concerning subject imports from India and Indonesia to promote administrative efficiency in light of its decision to conduct full reviews with respect to subject imports from Italy, Japan, and Korea. A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: February 10, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011–3337 Filed 2–14–11; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[USITC SE–11–004]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: February 16, 2011 at 11 a.m.

PLACE: Room 110, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: 1. Agenda for future meetings: none.

2. Minutes.

3. Ratification List.

4. Vote in Inv. No. 731–TA–298 (Third Review) (Porcelain-on-Steel

Cooking Ware from China). The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before February 28, 2011.

5. Outstanding action jackets:

(1.) Document No. GC–10–281 concerning Inv. No. 337–TA–722 (Certain Automotive Vehicles and Designs Therefore).

(2.) Document No. GC–11–011 concerning Inv. No. 337–TA–568 (Certain Products and Pharmaceutical Compositions Containing Recombinant Human Erythropoetin).

(3.) Document No. GC–11–013 concerning Inv. No. 337–TA–587 (Remand) (Certain Connecting Devices ("Quick Clamps") for Use with Modular Compressed Air Conditioning Units, Including Filters, Regulators, and Lubricators ("FRL's") That are Part of Larger Pneumatic Systems and the FRL Units They Connect).

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting. Earlier Notification of this meeting was not possible.

By order of the Commission.

Issued: February 10, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011–3460 Filed 2–11–11; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1090 (Review)]

Superalloy Degassed Chromium From Japan

AGENCY: United States International Trade Commission.

ACTION: Termination of five-year review.

SUMMARY: The subject five-year review was initiated in November 2010 to determine whether revocation of the antidumping duty order on superalloy degassed chromium from Japan would be likely to lead to continuation or recurrence of material injury. On December 22, 2010, the Department of Commerce published notice that it was revoking the order effective December 22, 2010, because "no domestic interested party responded to the notice of initiation of the sunset review by the applicable deadline." (75 FR 80457). Accordingly, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), the subject review is terminated.

DATES: *Effective Date:* February 3, 2011.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired 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 (*http://www.usitc.gov*).

Authority: This review is being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.69 of the Commission's rules (19 CFR 207.69).

By order of the Commission.

Issued: February 8, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011–3328 Filed 2–14–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–464 (Third Review)]

Sparklers From China

AGENCY: United States International Trade Commission.

ACTION: Termination of five-year review.

SUMMARY: The subject five-year review was initiated in November 2010 to determine whether revocation of the antidumping duty order on sparklers from China would be likely to lead to continuation or recurrence of material injury. On January 28, 2011, the Department of Commerce published notice that it was revoking the order effective December 5, 2010, because "the domestic interested parties did not participate in this sunset review, * * *" (76 FR 5140). Accordingly, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), the subject review is terminated.

DATES: *Effective Date:* February 9, 2011.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired 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 (*http://www.usitc.gov*).

Authority: This review is being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.69 of the Commission's rules (19 CFR 207.69).

By order of the Commission.

Issued: February 9, 2011.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. 2011–3325 Filed 2–14–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–639 and 640 (Third Review)]

Forged Stainless Steel Flanges From India and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Termination of five-year reviews.

SUMMARY: The subject five-year reviews were initiated in November 2010 to determine whether revocation of the antidumping duty orders on forged stainless steel flanges from India and Taiwan would be likely to lead to continuation or recurrence of material injury. On January 31, 2011, the Department of Commerce published notice that it was revoking the orders effective January 23, 2011, because "the domestic interested parties did not participate in these sunset reviews, * * *" (76 FR 5331). Accordingly, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), the subject reviews are terminated.

DATES: *Effective Date:* February 4, 2011.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired 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 (*http://www.usitc.gov*).

Authority: These reviews are being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.69 of the Commission's rules (19 CFR 207.69).

By order of the Commission.

Issued: February 8, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011–3330 Filed 2–14–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–386 (Third Review)]

Granular Polytetrafluoroethylene Resin From Japan

AGENCY: United States International Trade Commission.

ACTION: Termination of five-year review.

SUMMARY: The subject five-year review was initiated in November 2010 to determine whether revocation of the antidumping duty order on granular polytetrafluoroethylene resin from Japan would be likely to lead to continuation or recurrence of material injury. On January 20, 2011, the Department of Commerce published notice that it was revoking the order effective December 22, 2010, because "the domestic parties did not participate in this review." (76 FR 3614). Accordingly, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), the subject review is terminated.

DATES: *Effective Date:* February 3, 2011.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired 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 (*http://www.usitc.gov*).

Authority: This review is being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.69 of the Commission's rules (19 CFR 207.69).

By order of the Commission.

Issued: February 8, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011–3329 Filed 2–14–11; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0292]

Agency Information Collection Activities: Existing Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review Extension and revision of a Currently Approved Collection; Survey of Sexual Violence.

The Department of Justice (DOJ), Bureau of Justice Statistics (BJS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 75, number 220, page 70030 on November 16, 2010, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until March 17, 2011. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Paul Guerino, Bureau of Justice Statistics, 810 Seventh Street, NW., Washington, DC 20531 (phone: 202–307–0349).

Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: DOJ Desk Officer. The best way to ensure your comments are received is to e-mail them to *oira_submission@omb.eop.gov* or fax them to 202–395–7285. All comments should reference the 8 digit OMB number for the collection or the title of the collection. If you have questions concerning the collection, please call Paul Guerino, Bureau of Justice Statistics, 810 Seventh Street, NW., Washington, DC 20531 (phone: 202–307–0349) or the DOJ Desk Officer at 202–395–3176.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Existing collection with change.

(2) *Title of the Form/Collection:* Survey of Sexual Violence.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: SSV1, SSV2, SSV3, SSV4, SSV5, SSV6; SSV–IA, SSV–IJ; Bureau of Justice Statistics, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local, or Tribal Government. Other: Federal Government, Business or other for-profit, Not-for-profit institutions. The data will be used to develop estimates for the incidence and prevalence of sexual assault within correctional facilities as required under the Prison Rape Elimination Act of 2003 (Pub. L. 108–79).

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: It is estimated that 1,281 respondents will complete each summary form within 60 minutes and each substantiated incident form (as needed, we estimate about 1,100 forms will be completed) in 15 minutes.

(6) An estimate of the total public burden (in hours) associated with the

collection: There are an estimated 1,556 total annual burden hours associated with this collection.

If additional information is required contact: Mrs. Lynn Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street, NE., Suite 2E–502, Washington, DC 20530.

Dated: February 9, 2011.

Lynn Murray,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2011–3298 Filed 2–14–11; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[OMB Number 1117–0043]

Agency Information Collection Activities: Proposed Collection; Comments Requested: Drug Questionnaire, DEA Form 341

ACTION: 30-Day Notice of Information Collection under Review.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 75, Number 239, page 77906 on December 14, 2010, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until March 17, 2011. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Raymond A. Pagliarini, Jr., Assistant Administrator, Human Resources Division, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152.

Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: DOJ Desk Officer. The best way to ensure your comments are received is to e-mail them to *oira_submission@omb.eop.gov* or fax them to 202–395–7285. All comments should reference the 8 digit OMB number for the collection or the title of the collection. If you have questions concerning the collection, please call Raymond A. Pagliarini, Jr., Assistant Administrator, Human Resources Division, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152 or the DOJ Desk Officer at 202–395–3176.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this Information Collection 1117–0043:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Drug Questionnaire (DEA Form 341).

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: DEA Form 341.

Component: Human Resources Division, Drug Enforcement Administration, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals.

Other: None.

Abstract: DEA Policy states that a past history of illegal drug use may be a disqualification for employment with DEA. This form asks job applicants specific questions about their personal history, if any, of illegal drug use.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 173,800 respondents will respond annually, taking 5 minutes to complete each form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 14,483 annual burden hours.

If additional information is required contact: Lynn Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, 145 N Street, NE., Suite 2E–502, Washington, DC 20530.

Dated: February 9, 2011.

Lynn Murray,

Department Clearance Officer, Department of Justice.

[FR Doc. 2011–3319 Filed 2–14–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated November 1, 2010, and published in the **Federal Register** on November 12, 2010, 75 FR 69459, Formulation Technologies LLC., 11501 Domain Drive, Suite 130, Austin, Texas 78758, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Fentanyl (9801), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance for analytical characterization, secondary packaging, and for distribution to clinical trial sites.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Formulation Technologies LLC. to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. DEA has investigated Formulation Technologies LLC. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of

the basic class of controlled substance listed.

Dated: February 4, 2011.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2011–3409 Filed 2–14–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated November 1, 2010, and published in the **Federal Register** on November 12, 2010, 75 FR 69459, Cerilliant Corporation, 811 Paloma Drive, Suite A, Round Rock, Texas 78665–2402, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the following basic classes of controlled substances:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
Fenethylline (1503)	I
Gamma Hydroxybutyric Acid (2010)	I
Ibogaine (7260)	I
Lysergic acid diethylamide (7315)	I
2,5-Dimethoxy-4-(n)-propylthiophenethylamine (7348)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
3,4,5-Trimethoxyamphetamine (7390)	I
4-Bromo-2,5-dimethoxyamphetamine (7391)	I
4-Bromo-2,5-dimethoxyphenethylamine (7392)	I
4-Methyl-2,5-dimethoxyamphetamine (7395)	I
2,5-Dimethoxyamphetamine (7396)	I
3,4-Methylenedioxyamphetamine (7400)	I
3,4-Methylenedioxy-N-ethylamphetamine (7404)	I
3,4-Methylenedioxymethamphetamine (7405)	I
4-Methoxyamphetamine (7411)	I
Alpha-methyltryptamine (7432)	I
Diethyltryptamine (7434)	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
5-Methoxy-N,N-diisopropyltryptamine (7439)	I
N-Benzylpiperazine (7493)	I
Etorphine (except HCl)(9056)	I
Heroin (9200)	I
Morphine-N-oxide (9307)	I
Normorphine (9313)	I
Pholcodine (9314)	I
Dextromoramide (9613)	I
Dipipanone (9622)	I
Racemoramide (9645)	I
Trimeperidine (9646)	I
Tilidine (9750)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Meperidine (9230)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II
Morphine (9300)	II
Oripavine (9330)	II
Thebaine (9333)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Poppy Straw Concentrate (9670)	II
Fentanyl (9801).	

The company plans to import small quantities of the listed controlled substances for the manufacture of analytical reference standards.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Cerilliant Corporation to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. DEA has investigated Cerilliant Corporation to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: February 4, 2011.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2011–3407 Filed 2–14–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated October 8, 2010, and published in the **Federal Register** on October 20, 2010, (75 FR 64745), National Center for Natural Products Research-NIDA MProject, University of Mississippi, 135 Coy Waller Lab Complex, University, Mississippi 38677, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I

The company plans to cultivate marihuana for the National Institute on Drug Abuse for research approved by the Department of Health and Human Services.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of National Center for Natural Products Research-NIDA MProject to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated National Center for Natural Products Research-NIDA MProject to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: February 4, 2011.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2011–3410 Filed 2–14–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated October 8, 2010 and published in the **Federal Register** on October 20, 2010, 75 FR 64744, GE Healthcare, 3350 North Ridge Avenue, Arlington Heights, Illinois 60004–1412, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Cocaine (9041), a basic class of controlled substance.

The company plans to manufacture a radioactive product used in diagnostic imaging in the diagnosis of Parkinson's Disease and for manufacture in bulk for investigational new drug (IND) submission and clinical trials.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of GE Healthcare to manufacture the listed basic class of controlled substance is consistent with the public interest at this time. DEA has investigated GE Healthcare to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic class of controlled substance listed.

Dated: February 4, 2011.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2011–3405 Filed 2–14–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated October 19, 2010, and published in the **Federal Register** on October 26, 2010, 75 FR 65659, Cedarburg Pharmaceuticals, Inc., 870 Badger Circle, Grafton, Wisconsin 53024, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Dihydromorphine (9145)	I
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Remifentanil (9739)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The company plans to manufacture the listed controlled substances in bulk for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Cedarburg Pharmaceuticals, Inc. to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Cedarburg Pharmaceuticals, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above named company is granted

registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: February 4, 2011.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2011–3406 Filed 2–14–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (BJA) Docket No. 1545]

Meeting of the Department of Justice's (DOJ's) National Motor Vehicle Title Information System (NMVTIS) Federal Advisory Committee

AGENCY: Office of Justice Programs (OJP), Justice.

ACTION: Notice of meeting.

SUMMARY: This is an announcement of a meeting of DOJ's National Motor Vehicle Title Information System (NMVTIS) Federal Advisory Committee to discuss the role of the NMVTIS Federal Advisory Committee Members and various issues relating to the operation and implementation of NMVTIS.

DATE: The meeting will take place on Wednesday, March 2, 2011, from 8:30 a.m. to 4 p.m. ET and on Thursday, March 3, 2011, from 8:30 a.m. to 12 p.m. ET.

ADDRESSES: The meeting will take place at the Bureau of Justice Assistance, Office of Justice Programs, 810 7th Street, NW., Washington, DC 20531; Phone: (202) 305–1661.

FOR FURTHER INFORMATION CONTACT: Alissa Huntoon, Designated Federal Official (DFO), Bureau of Justice Assistance, Office of Justice Programs, 810 7th Street Northwest, Washington, DC 20531; Phone: (202) 305–1661 [**Note:** this is not a toll-free number]; E-mail: *Alissa.Huntoon@usdoj.gov.*

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Due to security measures, however, members of the public who wish to attend this meeting must register with Ms. Alissa Huntoon at the above address at least seven (7) days in advance of the meeting. Registrations will be accepted on a space available basis. Access to the meeting will not be allowed without registration. All attendees will be required to sign in at the security desk. Please bring photo identification and allow extra time prior to the meeting. Interested persons whose registrations have been accepted may be permitted to participate in the discussions at the discretion of the meeting chairman and with approval of the DFO.

Anyone requiring special accommodations should notify Ms. Huntoon at least seven (7) days in advance of the meeting.

Purpose

The NMVTIS Federal Advisory Committee will provide input and recommendations to the Office of Justice Programs (OJP) regarding the operations and administration of NMVTIS. The primary duties of the NMVTIS Federal Advisory Committee will be to advise the Bureau of Justice Assistance (BJA) Director on NMVTIS-related issues, including but not limited to: Implementation of a system that is self-sustainable with user fees; options for alternative revenue-generating opportunities; determining ways to enhance the technological capabilities of the system to increase its flexibility; and options for reducing the economic burden on current and future reporting entities and users of the system.

Alissa Huntoon,

NMVTIS DFO, Bureau of Justice Assistance, Office of Justice Programs.

[FR Doc. 2011–3352 Filed 2–14–11; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0032]

Construction Standards on Posting Emergency Telephone Numbers and Floor Load Limits; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirements specified by the Construction Standards on Posting Emergency Telephone Numbers and Floor Load Limits (paragraph (f) of § 1926.50 and paragraph (a)(2) of § 1926.250, respectively).

DATES: Comments must be submitted (postmarked, sent, or received) by April 18, 2011.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2011–0032, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number for the Information Collection Request (ICR) (OSHA–2011–0032). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney or Todd Owen at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation

program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Two construction standards, "Medical Services and First Aid" (§ 1926.50), and "General Requirements for Storage" (§ 1926.250), contain posting provisions. Paragraph (f) of § 1926.50 requires employers to post emergency telephone numbers for physicians, hospitals, or ambulances at the worksite if the 911 emergency telephone service is not available; in the event a worker has a serious injury at the worksite, this posting requirement expedites emergency medical treatment of the employee. Paragraph (a)(2) of § 1926.250 specifies that employers must post the maximum safe load limits of floors located in storage areas inside buildings or other structures, unless the floors are on grade. This provision prohibits employers from overloading floors in areas used to store material and equipment in multi-story units that are under construction, thereby preventing the floors from collapsing and seriously injuring workers.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions to protect workers, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the two construction standards, "Medical Services and First Aid" paragraph (f) of § 1926.50, and "General Requirements for Storage" paragraph (a)(2) of § 1926.250. The Agency is requesting an adjustment decrease to its current burden hour total from 197,819 to 139,078 for a total decrease of 58,741 hours associated with these two Standards. The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Construction Standards on the Posting of Emergency Telephone Numbers and Floor Load Limits (29 CFR 1926.50(f) and 29 CFR 1926.250(a)(2)).

OMB Number: 1218–0093.

Affected Public: Business or other for-profits; Not-for-profit institutions; Federal Government; State, Local or Tribal Governments.

Number of Respondents: 282,050.

Frequency: Varies from 2 minutes (.03 hour) to post emergency numbers to 15 minutes (.25 hour) to develop and post load limits for floors.

Total Responses: 559,958.

Estimated Total Burden Hours: 139,078.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile; or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for this ICR (Docket No. OSHA–2011–0032). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or a facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 4–2010 (75 FR 55355).

Signed at Washington, DC, on February 10, 2011.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2011–3363 Filed 2–14–11; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0033]

Standard on the Control of Hazardous Energy (Lockout/Tagout); Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirements specified in the Standard on the Control of Hazardous Energy (Lockout/Tagout) (29 CFR 1910.147).

DATES: Comments must be submitted (postmarked, sent, or received) by April 18, 2011.

ADDRESSES: *Electronically:* You may submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2011–0033, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number for the Information Collection Request (ICR) (OSHA–2011–0033). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov*. For further information on submitting comments see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The Standard specifies several information collection requirements. The following sections describe who uses the information collected under each requirement, as well as how they use it. The purpose of these requirements is to control the release of hazardous energy sources while workers service, maintain, or repair machines or equipment when activation, start up, or release of energy from an energy source is possible; proper control of hazardous energy sources prevent death or serious injury among these workers.

Energy Control Procedure (paragraph (c)(4)(i)). With limited exception, employers must document the procedures used to isolate from its energy source and render inoperative, any machine or equipment prior to servicing, maintenance, or repair by workers. These procedures are necessary when activation, start up, or release of stored energy from the energy source is possible, and such release could cause injury to the workers.

Paragraph (c)(4)(ii) states that the required documentation must clearly and specifically outline the scope, purpose, authorization, rules, and techniques workers are to use to control hazardous energy, and the means to enforce compliance. The document must include at least the following elements:

(A) A specific statement regarding the use of the procedure;

(B) Detailed procedural steps for shutting down, isolating, blocking, and securing machines or equipment to control hazardous energy,

(C) Detailed procedural steps for placing, removing, and transferring lockout or tagout devices, including the responsibility for doing so; and,

(D) Requirements for testing a machine or equipment to determine and verify the effectiveness of lockout or tagout devices, as well as other energy control measures.

The employer uses the information in this document as the basis for informing and training workers about the purpose and function of the energy control procedures, and the safe application, use, and removal of energy controls. In addition, this information enables employers to effectively identify operations and processes in the workplace that require energy control procedures.

Periodic Inspection (paragraph (c)(6)(ii)). Under paragraph (c)(6)(i), employers are to conduct inspections of energy control procedures at least annually. An authorized worker (other than an authorized worker using the energy control procedure that is the subject of the inspection) is to conduct the inspection and correct any deviations or inadequacies identified. For procedures involving either lockout or tagout, the inspection must include a review, between the inspector and each authorized worker, of that worker's responsibilities under the procedure; for procedures using tagout systems, the review also involves affected workers, and includes an assessment of the workers' knowledge of the training

elements required for these systems. Paragraph (c)(6)(ii) requires employers to certify the inspection by documenting the date of the inspection and identifying the machine or equipment inspected, the workers included in the inspection, and the worker who performed the inspection.

Training and Communication (paragraph (c)(7)(iv)). Paragraph (c)(7)(i) specifies that employers must establish a training program that enables workers to understand the purpose and function of the energy control procedures, and provides them with the knowledge and skills necessary for the safe application, use, and removal of energy controls. According to paragraph (c)(7)(i), employers are to ensure that: authorized workers recognize the applicable hazardous energy sources, the type and magnitude of the energy available in the workplace, and the methods and means necessary for energy isolation and control; affected workers obtain instruction on the purpose and use of the energy control procedure; and other workers who work, or may work, near operations using the energy control procedure receive training about the procedure, as well as the prohibition regarding attempts to restart or reactivate machines or equipment having locks or tags to control energy release.

Under paragraph (c)(7)(ii), when the employer uses a tagout system, the training program must inform workers that: Tags are warning labels affixed to energy isolating devices, and, therefore, they do not provide the physical restraint on those devices that locks do; workers are not to remove tags attached to an energy isolating device unless permitted to do so by the authorized worker responsible for the tag, and they are never to bypass, ignore, or in any manner defeat the tagout system; tags must be legible and understandable by authorized and affected workers, as well as by other workers who work, or may work, near operations using the energy control procedure; the materials used for tags, including the means of attaching them, must withstand the environmental conditions encountered in the workplace; tags may evoke a false sense of security, and workers must understand that tags are only part of the overall energy control program; and they must attach tags securely to energy isolating devices to prevent removal of the tags during use.

Paragraph (c)(7)(iii) states that employers must retrain authorized and affected workers when a change occurs in: Their job assignments, the machines, equipment, or processes such that a new hazard is present; and the energy control procedures. Employers also must provide retraining when they have reason to believe, or periodic inspection required under paragraph (c)(6) indicates, that deviations and inadequacies exist in a worker's knowledge or use of energy control procedures. The retraining must reestablish worker proficiency and, if necessary, introduce new or revised energy control procedures.

Under paragraph (c)(7)(iv), employers are to certify that workers completed the required training, and that this training is up-to-date. The certification is to contain each worker's name and the training date.

Training workers to recognize hazardous energy sources and to understand the purpose and function of the energy control procedures, and providing them with the knowledge and skills necessary to implement safe application, use, and removal of energy controls, enables them to prevent serious accidents by using appropriate control procedures in a safe manner to isolate these hazards. In addition, written certification of the training assures the employer that workers receive the training specified by the Standard.

Disclosure of Inspection and Training Certification Records (paragraphs (c)(6)(ii) and (c)(7)(iv)). The inspection records provide employers with assurance that workers can safely and effectively service, maintain, and repair machines and equipment covered by the Standard. These records also provide the most efficient means for an OSHA compliance officer to determine that an employer is complying with the Standard, and that the machines and equipment are safe for servicing, maintenance, and repair. The training records provide the most efficient means for an OSHA compliance officer to determine whether an employer has performed the required training.

Notification of Employees (paragraph (c)(9)). This provision requires the employer or authorized worker to notify affected workers prior to applying, and after removing, a lockout or tagout device from a machine or equipment. Such notification informs workers of the impending interruption of the normal production operation, and serves as a reminder of the restrictions imposed on them by the energy control program. In addition, this requirement ensures that workers do not attempt to reactivate a machine or piece of equipment after an authorized worker isolates its energy source and renders it inoperative. Notifying workers after removing an energy control device alerts them that the machines and equipment are no longer safe for servicing, maintenance, and repair.

Off-site Personnel (Contractors, etc.) (paragraph (f)(2)(i)). When the on-site employer uses an off-site employer (*e.g.,* a contractor) to perform the activities covered by the scope and application of the Standard, the two employers must inform each other regarding their respective lockout or tagout procedures. This provision ensures that each employer knows about the unique energy control procedures used by the other employer; this knowledge prevents any misunderstanding regarding the implementation of lockout or tagout procedures, and the use of lockout or tagout devices for a particular application.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the Standard on the Control of Hazardous Energy (Lockout/Tagout) (29 CFR 1910.147). The Agency is requesting a net decrease of 24,182 burden hours (from 3,013,603 to 2,989,421). The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Standard on the Control of Hazardous Energy (Lockout/Tagout) (29 CFR 1910.147).

OMB Number: 1218–0150.

Affected Public: Business or other for-profits.

Number of Respondents: 773,632.

Total Responses: 82,957,470.

Frequency of Recordkeeping: Initially; Annually; On occasion.

Estimated Time per Response: Varies from 15 seconds (.004 hour) for an employer or authorized worker to notify

affected workers prior to applying, and after removing, a lockout/tagout device from a machine or equipment to 80 hours for certain employers to develop energy control procedures.

Total Burden Hours: 2,989,421.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2011–0033). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 4–2010 (75 FR 55355).

Signed at Washington, DC, on February 10, 2011.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2011–3366 Filed 2–14–11; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0029]

Underground Construction Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirements specified in its Standard on Underground Construction (29 CFR 1926.800).

DATES: Comments must be submitted (postmarked, sent, or received) by April 18, 2011.

ADDRESSES: *Electronically:* You may submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, OSHA Docket No. OSHA–2011–0029, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number for the Information Collection request (ICR) (OSHA–2011–0029). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov*. For further information on submitting comments, see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and

accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Seven paragraphs in the Underground Construction Standard ("the Standard"), 29 CFR 1926.800, require employers to post warning signs or notices during underground construction; these paragraphs are (b)(3), (i)(3), (j)(1)(vi)(A), (m)(2)(ii), (o)(2), (q)(11), and (t)(1)(iv)(B). The warning signs and notices required by these paragraphs enable employers to effectively alert employees to the presence of hazards or potential hazards at the job site, thereby preventing employee exposure to hazards or potential hazards associated with underground construction that could cause death or serious harm.

Paragraph (t)(3)(xxi) of the Standard requires employers to inspect and load test hoists when they install them, and at least annually thereafter; they must also inspect and load test a hoist after making any repairs or alterations to it that affect its structural integrity, and after tripping a safety device on the hoist. Employers must also prepare a certification record of each inspection and load test that includes specified information, and maintain the most recent certification record until they complete the construction project.

Establishing and maintaining a written record of the most recent inspection and load test alerts equipment mechanics to problems identified during the inspection. Prior to returning the equipment to service, employers can review the records to ensure that the mechanics performed the necessary repairs and maintenance. Accordingly, by using only equipment that is in safe working order, employers will prevent severe injury and death to the equipment operators and other employees who work near the equipment. In addition, these records provide the most efficient means for OSHA compliance officers to determine that an employer performed the required inspections and load tests, thereby assuring that the equipment is safe to operate.

Paragraph (j)(3) of the Standard mandates that employers develop records for air quality tests performed under paragraph (j), including air quality tests required by paragraphs (j)(1)(ii)(A) through (j)(1)(iii)(A), (j)(1)(iii)(B), (j)(1)(iii)(C), (j)(1)(iii)(D), (j)(1)(iv), (j)(1)(v)(A), (j)(1)(v)(B), and (j)(2)(i) through (j)(2)(v). Paragraph (j) also requires that air quality records include specified information, and that employers maintain the records until the underground construction project is complete; they must also make the records available to OSHA compliance officers on request.

Maintaining records of air quality tests allows employers to document atmospheric hazards, and to ascertain the effectiveness of controls (especially ventilation) and implement additional controls if necessary. Accordingly, these requirements prevent serious injury and death to employees who work on underground construction projects. In addition, these records provide an efficient means for employees to evaluate the accuracy and effectiveness of an employer's exposure reduction program, and for OSHA compliance officers to determine that employers performed the required tests and implemented appropriate controls.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the Standard on Underground Construction (29 CFR 1926.800). The Agency is requesting to retain its previous estimate of 57,949 burden hours.

Type of Review: Extension of a currently approved collection.

Title: Underground Construction Standard (29 CFR 1926.800).

OMB Number: 1218–0067.

Affected Public: Business or other for-profits; not-for profit institutions; Federal government; State, local or Tribal governments.

Number of Respondents: 323.

Frequency: On occasion.

Average Time per Response: Varies from 30 seconds to read and record air quality test results to one hour to inspect, load test, and complete and maintain a certification record for a hoist.

Estimated Total Burden Hours: 57,949.

Estimated Cost (Operation and Maintenance): $117,000.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2011–0029). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download through this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this

notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 4–2010 (75 FR 55355).

Signed at Washington, DC, on February 10, 2011.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2011–3386 Filed 2–14–11; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (11–016)]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Lori Parker, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Lori Parker, NASA Clearance Officer, NASA Headquarters, 300 E Street, SW., JE0000, Washington, DC 20546, (202) 358–1351, *Lori.Parker@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Project provides education and public outreach for interested individuals on the utilization of NASA remote sensing products. Outreach activities will be in the form of workshops. Data collection on utilization and expertise with NASA products prior to and after the workshops will be used to assess the benefit of NASA's education activities to the workshop attendees. Data will also be collected electronically prior to the outreach activities for workshop content planning purposes.

II. Method of Collection

Workshop attendees will complete a total of three surveys. Surveys will be collected at the completion of each workshop in paper form. The first two surveys will be administered electronically.

III. Data

Title: NASA Applied Sciences Remote Sensing Outreach.

OMB Number: 2700–XXXX.

Type of review: New Collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 250.

Estimated Number of Responses per Respondent: 3.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 75 hours.

Estimated Annual Cost for Respondents: $0.00.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Lori Parker,

NASA Clearance Officer.

[FR Doc. 2011–3282 Filed 2–14–11; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (11–015)]

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 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Lori Parker, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Lori Parker, NASA Clearance Officer, NASA Headquarters, 300 E Street, SW., JF0000, Washington, DC 20546, (202) 358–1351, *Lori.Parker@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The NASA Office of the Chief Information Officer conducts an annual IT Summit, inviting government and private industry to join in collaboration about the latest trends in information technology. This collection covers the registration process for the conference as well as the post-conference survey.

II. Method of Collection

Electronic.

III. Data

Title: NASA IT Summit.

OMB Number: 2700–XXXX.

Type of Review: New Collection.

Affected Public: Federal Government and Individuals.

Estimated Number of Respondents: 2,000.

Estimated Number of Responses per Respondent: 1.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 167 hours.

Estimated Total Annual Cost: $0.00.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the

burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Lori Parker,

NASA Clearance Officer.

[FR Doc. 2011–3285 Filed 2–14–11; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL LABOR RELATIONS BOARD

Sunshine Act Meetings: February 2011

TIME AND DATES: All meetings are held at 2:30 p.m.

Tuesday, February 1;

Wednesday, February 2;

Thursday, February 3;

Tuesday, February 15;

Wednesday, February 16;

Thursday, February 17;

Tuesday, February 22;

Wednesday, February 23;

Thursday, February 24.

PLACE: Board Agenda Room, No. 11820, 1099 14th St., NW., Washington, DC 20570.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Pursuant to § 102.139(a) of the Board's Rules and Regulations, the Board or a panel thereof will consider "the issuance of a subpoena, the Board's participation in a civil action or proceeding or an arbitration, or the initiation, conduct, or disposition * * * of particular representation or unfair labor practice proceedings under section 8, 9, or 10 of the [National Labor Relations] Act, or any court proceedings collateral or ancillary thereto." See also 5 U.S.C. 552b(c)(10).

CONTACT PERSON FOR MORE INFORMATION: Lester A. Heltzer, Executive Secretary, (202) 273–1067.

Dated: February 11, 2011.

Lester A. Heltzer,

Executive Secretary.

[FR Doc. 2011–3537 Filed 2–11–11; 4:15 pm]

BILLING CODE 7545–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–03754; NRC–2011–0033]

ABB Inc.; License Amendment Request for Decommissioning of the ABB Inc., Combustion Engineering, Windsor, Connecticut Site, Opportunity To Provide Comments and/or Request a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of amendment request and opportunity to request a hearing.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received a license amendment application for decommissioning from ABB, Inc., requesting approval of a revised decommissioning plan and site specific derived concentration guideline levels at its Combustion Engineering site located in Windsor, Connecticut.

DATES: Submit comments by April 18, 2011. Requests for a hearing must be filed by April 18, 2011.

ADDRESSES: You may submit comments by any one of the following methods. Please include Docket ID NRC–2011–0033 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site Regulations.gov. 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.

Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2011–0033. Address questions about NRC dockets to Carol Gallagher 301–492–3668; e-mail *Carol.Gallagher@nrc.gov.*

Mail comments to: Cindy K. Bladey, Chief, Rules, Announcements and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to RADB at (301) 492–3446.

You can access publicly available documents related to this notice 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, Room O1 F21, One White Flint North, *11555 Rockville Pike, Rockville, Maryland 20852.*

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.* The documents related to this license amendment request for decommissioning are listed below and are available electronically under the ADAMS Accession Numbers noted:

1. ABB, Inc. Decommissioning Plan Revision 2 CE Windsor Site (Previously Identified FUSRAP Areas Including Debris Piles & Site Brook). August 2010. ML102310473.
2. ABB, Inc. Decommissioning Plan Revision 2 CE Windsor Site—Figures. August 2010. ML102310512.
3. ABB, Inc. Decommissioning Plan Revision 2 CE Windsor Site—Tables. August 2010.
4. ABB, Inc. Decommissioning Plan Revision 2 CE Windsor Site—Appendix A: RESRAD Reports—Resident Farmer Thorium and Radium. August 2010. ML102310548.
5. ABB, Inc. Decommissioning Plan Revision 2 CE Windsor Site—Appendix B: Probabilistic Evaluation Graphical Summary. August 2010. ML102310553.
6. ABB, Inc. Derivation of the Site Specific Soil DCGLs, Addendum, Soil DCGLs for thorium and radium. August 2010. ML102310539.

Federal Rulemaking Web site: Public comments and supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID: NRC–2011–0033.

FOR FURTHER INFORMATION CONTACT: John Nicholson, Project Manager, Decommissioning Branch, Division of Nuclear Materials Safety, Region I, U.S. Nuclear Regulatory Commission, King of Prussia, Pennsylvania, 19406. Telephone: (610)–337–5236; fax number: (610)–337–5269; e-mail: *john.nicholson@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC) has received, by letter dated February 26, 2010, as supplemented on August 6, 2010, a license amendment application for decommissioning from ABB, Inc. (the licensee), requesting approval of a revised decommissioning plan and site specific derived concentration guideline levels (DCGLs) at its Combustion Engineering site located in Windsor, Connecticut. License No. 06–00217–06 authorizes the licensee to possess and store licensed materials for those activities related to decontamination and dismantlement of buildings; excavation and removal of waste lines, underground utilities and debris; and remediation of soils. Specifically, the amendment requests to use site specific DCGLs for Th–232 and Ra–226. The revised decommissioning plan also includes a description of decommissioning activities for the site brook and debris piles at the Combustion Engineering site. The revised decommissioning plan does not change any previously approved remediation activities or DCGLs for uranium contamination at the site.

An NRC administrative review, found the application acceptable to begin a technical review. If the NRC approves the amendment, the approval will be documented in an amendment to NRC License No. 06–00217–06. However, before approving the proposed amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation Report and an Environmental Assessment.

II. Opportunity To Request a Hearing

Requirements for hearing requests and petitions for leave to intervene are found in 10 CFR 2.309,—"Hearing requests, Petitions to Intervene, Requirements for Standing, and Contentions." Interested persons should consult 10 CFR part 2, section 2.309, which is available at the NRC's Public Document Room (PDR), located at O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852 (or call the PDR at (800) 397–4209 or (301) 415–4737). NRC regulations are also accessible electronically from the NRC's Electronic Reading Room on the NRC Web site at *http://www.nrc.gov.*

III. Petitions for Leave To Intervene

Any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition must provide the name, address, and telephone number of the petitioner and specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest.

A petition for leave to intervene must also include a specification of the contentions that the petitioner seeks to have litigated in the hearing. For each contention, the petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings the NRC must make to support the granting of a license amendment in response to the application. The petition must also include a concise statement of the alleged facts or expert opinions which support the position of the petitioner and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the petitioner intends to rely. Finally, the petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application for amendment that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application for amendment fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief. Each contention must be one that, if proven, would entitle the petitioner to relief.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Atomic Safety and Licensing Board (Licensing Board) will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Non-timely petitions for leave to intervene and contentions, amended petitions, and supplemental petitions will not be entertained absent a determination by the Commission, the Licensing Board or a Presiding Officer that the petition should be granted and/or the contentions should be admitted based upon a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

A State, county, municipality, federally-recognized Indian Tribe, or agencies thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(d)(2). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by April 18, 2011. The petition must be filed in accordance with the filing instructions in section IV of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that State and federally-recognized Indian tribes do not need to address the standing requirements in 10 CFR 2.309(d)(1) if the facility is located within its boundaries. The entities listed above could also seek to participate in a hearing as a nonparty pursuant to 10 CFR 2.315(c).

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to such limits and conditions as may be imposed by the Licensing Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by April 18, 2011.

IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and

documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-FilingFiling, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov,* or by telephone at (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-FilingSubmittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-FilingSubmittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-FilingFiling system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-FilingFiling rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through EIE, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-FilingFiling system. To be timely, an electronic filing must be submitted to the E-FilingFiling system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-FilingFiling system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-FilingFiling system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-FilingFiling system.

A person filing electronically using the agency's adjudicatory E-FilingFiling system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by e-mail at *MSHD.Resource@nrc.gov,* or by a toll-free call at (866) 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-FilingFiling, may require a participant or party to use E-FilingFiling if the presiding officer subsequently determines that the reason for granting the exemption from use of E-FilingFiling no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/EHD/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from February 15, 2011. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

Dated at King of Prussia, Pennsylvania, this 4th day of February, 2011.

For the Nuclear Regulatory Commission.

Judith A. Joustra,

Chief, Decommissioning Branch, Division of Nuclear Materials Safety, Region I.

[FR Doc. 2011–3360 Filed 2–14–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0006]

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATE: Weeks of February 14, 21, 28, March 7, 14, 21, 2011.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of February 14, 2011

There are no meetings scheduled for the week of February 14, 2011.

Week of February 21, 2011—Tentative

Thursday, February 24, 2011

9 a.m. Briefing on Groundwater Task Force (Public Meeting); (Contact: Margie Kotzalas, 301–415–1727).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov.*

Week of February 28, 2011—Tentative

Tuesday, March 1, 2011

9 a.m. Briefing on Reactor Materials Aging Management Issues (Public Meeting); (Contact: Allen Hiser, 301–415–5650)

This meeting will be Webcast live at the Web address—*http://www.nrc.gov.*

Week of March 7, 2011—Tentative

There are no meetings scheduled for the week of March 7, 2011.

Week of March 14, 2011—Tentative

There are no meetings scheduled for the week of March 14, 2011.

Week of March 21, 2011—Tentative

There are no meetings scheduled for the week of March 21, 2011.

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*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415–1292. Contact person for more information: Rochelle Bavol, (301) 415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/about-nrc/policy-making/schedule.html.*

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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.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an e-mail to *darlene.wright@nrc.gov.*

Dated: February 10, 2011.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2011–3491 Filed 2–11–11; 4:15 pm]

BILLING CODE 7590–01–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

National Nanotechnology Coordination Office; Bridging NanoEHS Research Efforts: A Joint US–EU Workshop: Public Meeting

AGENCY: National Nanotechnology Coordination Office, STPO.

ACTION: Notice of public meeting.

SUMMARY: The National Nanotechnology Coordination Office (NNCO), on behalf of the Nanoscale Science, Engineering, and Technology (NSET) Subcommittee of the Committee on Technology, National Science and Technology Council (NSTC), will hold a workshop on March 10–11, 2011, to provide an open forum and engage in an active scientific discussion about environmental health and safety questions for nanomaterials and nanotechnology-enabled products, to encourage joint US–EU programs of work that would leverage resources, and to establish communities of research practice, including identification of key points of contact/interest groups/themes between key US and EU researchers for near-term and future collaborations. This request will be active from February 10, 2011, to March 10, 2011.

DATES: The public meeting will be held on Thursday, March 10, 2011 from 8:30 a.m. until 5:30 p.m. and on Wednesday, March 11, 2011 from 8:30 a.m. until 4 p.m.

ADDRESSES: The first day of the public meeting will be held at The George Washington University, Elliott School of International Affairs, 1957 E Street, NW., Washington, DC 20052 (Metro Stops: Farragut West or Foggy Bottom). For directions, please see *http://www.gwu.edu.* The second day will be held at American Association for the Advancement of Science (AAAS), 1200 New York Avenue, Washington, DC 20005 (Metro Stops: Metro Center or McPherson Square). For directions, please see *http://www.aaas.org.*

Registration: Due to space limitations, pre-registration for the workshop is required. People interested in attending the workshop should register online at *http://www.nano.gov/html/meetings/us-eu/register.html.* Written notices of participation by e-mail should be sent to *useu@nnco.nano.gov.* Written notices may be mailed to the US–EU Workshop, c/o NNCO, 4201 Wilson Blvd., Stafford II, Suite 405, Arlington, VA 22230. Registration is on a first-come, first-served basis until the location space limits are reached. Otherwise registration will close on March 9, 2010 at 4 p.m. EDT.

Those interested in presenting 3–5 minutes of public comments at the meeting should also register at *http://www.nano.gov/html/meetings/us-eu/register.html.* Written or electronic comments should be submitted by email to *useu@nnco.nano.gov* until April 11, 2011. Information about the meeting, including the agenda, is posted at *http://www.nano.gov.*

Meeting Accommodations: Individuals requiring special accommodation to access this public meeting should contact Diana Petreski, telephone (703) 292–8626 at least ten business days prior to the meeting so that appropriate arrangements can be made.

FOR FURTHER INFORMATION CONTACT: For information regarding this Notice, please contact Diana Petreski, telephone (703) 292–8626, National Nanotechnology Coordination Office. E-mail: *useu@nnco.nano.gov.*

Ted Wackler,

Deputy Chief of Staff.

[FR Doc. 2011–3365 Filed 2–14–11; 8:45 am]

BILLING CODE 3170–W0–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 29576; File No. 813–00361]

Riverside Casualty, Inc.; Notice of Application

February 8, 2011.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application for an order under sections 6(b) and 6(e) of the Investment Company Act of 1940 (the "Act") granting an exemption from all provisions of the Act, except section 9, and sections 36 through 53, and the rules and regulations under the Act (other than rule 38a–1). With respect to sections 17 and 30 of the Act, and the rules and regulations thereunder, the exemption is limited as set forth in the application.

SUMMARY OF APPLICATION: Applicant, a single purpose holding company, requests an order to exempt it and its affiliates from certain provisions of the Act. Applicant will be an "employees' securities company" within the meaning of section 2(a)(13) of the Act.

APPLICANT: Riverside Casualty, Inc. ("RCI").

FILING DATES: The application was filed on March 9, 2006, and amended on September 21, 2010, and February 4, 2011.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 7, 2011 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090; Applicant, Riverside Casualty, Inc., 111 Riverside Avenue, Jacksonville, FL 32202.

FOR FURTHER INFORMATION CONTACT: Laura L. Solomon, Senior Counsel, at (202) 551–6915, or Janet M. Grossnickle, Assistant Director, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicant's Representations

1. The Haskell Company ("THC"), a Delaware corporation, is a design-build company that provides architectural, engineering, construction, real estate and facility management services. All of the outstanding shares of THC's common stock are owned by The Haskell Company Employee Stock Ownership Trust ("THC ESOP"); Preston H. Haskell III, Chairman and current employee of THC; and Eligible Employees and Eligible Family Members, both as defined below. THC purchased insurance policies from insurance subsidiaries of American Contractors Insurance Group, Ltd. ("Captive"). Captive is an insurance company exempt from the provisions of the Act under section 3(c)(3) or 3(c)(6) of the Act.

2. RCI, a Florida corporation, was formed by THC solely to acquire and hold an equity interest in Captive in order to take advantage of favorable federal income tax treatment of the insurance premiums paid to Captive and the retroactive rate reductions received from the insurance subsidiaries of Captive. RCI will be an "employees securities company" within the meaning of section 2(a)(13) of the Act. RCI's shareholders will have no opportunity for profit or loss from their RCI shares. In March 2006, shareholders of THC common stock became the initial shareholders of RCI through a share-for-share-dividend from THC whereby holders of THC common stock received shares of RCI common stock. The initial grant of RCI's common stock to Eligible Persons (defined below) was not registered under the Securities Act of 1933, as amended ("Securities Act") as the Eligible Persons did not invest their own funds and did not have discretion over whether or not they received RCI common stock. After the initial grant, RCI common stock will only be offered through purchases of equity packages under the Amended and Restated The Haskell Company Employee Equity Plan, as amended (the "Plan") to Eligible Employees in one or more transactions pursuant to rule 701 of the Securities Act.[1] Applicant contemplates that at all times the ownership of RCI common stock will be as nearly identical as possible to that of THC common stock, excepting the THC ESOP.

3. "Eligible Persons" consist of: (a) Preston H. Haskel III, Chairman and current employee of THC, and THC administrative employees and permanent craft employees who are currently and actively employed by THC and who are not part-time workers or full-time workers hired temporarily to work at any of THC's jobsites ("Eligible Employees"); and (b) a spouse, child, spouse of a child, brother, sister, parent or grandchild of Mr. Haskell, or of any individual who is an Eligible Employee ("Eligible Family Member"). Participants in the Plan[2] will be informed that: (a) RCI common stock will be sold in a transaction at the par value of $0.001 per share exempt from registration under rule 701 of the Securities Act; (b) the protections afforded by the Securities Act, other than the anti-fraud provisions will not be applicable; (c) RCI will be exempt from most of the provisions of the Act; and (d) resale or hypothecation of shares of RCI common stock are highly restricted under the Securities Act and the articles of incorporation and bylaws of RCI and the Plan. Shares of RCI common stock will be offered and sold at their par value ($0.001 per share), and will be automatically redeemed at the same price upon redemption. No sales load (front end or upon redemption) will be charged to a Participant in the Plan.

4. Applicant states that RCI's activities will be limited to owning an equity interest in Captive, meeting capital assessments requested by Captive and receiving distributions from Captive with respect to RCI's equity interest. Applicant anticipates that RCI will fund any assessments from Captive with loans and advances from THC. In the event Captive makes a distribution to RCI, RCI will use such distribution for repayment of the total loans and advances from THC to RCI. THC paid all of RCI's start up costs and has agreed to pay RCI's ongoing administrative costs.

5. RCI will be managed by the Board of Directors of RCI ("RCI Board"). Each member of the RCI Board will be a member of the Board of Directors and/or an officer of THC. RCI holds its annual meeting once a year at which time the shareholders are provided with an annual report of RCI and audited financial statements presented on a combined basis with THC's financial statements. Except for advances from THC, RCI will not borrow money, guarantee or secure the obligations of any third party by any person, or extend credit to any person or third party including for purposes of purchasing shares of RCI common stock.

6. RCI common stock will be non-transferable. Pursuant to the Plan,

[1] Applicant is not asking for and the Commission is not making any determination with respect to, the Applicant's ability to rely on the no-sale doctrine or rule 701 of the Securities Act.

[2] "Participants" means those Eligible Persons who have acquired RCI common stock.

transfers, distributions or withdrawals of RCI common stock are not permitted. Redemptions of RCI common stock held by Eligible Employees participating in the Plan will be at par value and will be conducted as part of the redemption of a holder's equity package, which will occur at termination of employment with THC. If a holder of RCI common stock ceases to be an Eligible Person, such holder's shares will be automatically redeemed for an amount in cash equal to the par value of the shares redeemed.

Applicant's Legal Analysis

1. Section 6(b) of the Act provides, in part, that the Commission will exempt employees' securities companies from the provisions of the Act to the extent that the exemption is consistent with the protection of investors. Section 6(b) provides that the Commission will consider, in determining the provisions of the Act from which the company should be exempt, the company's form of organization and capital structure, the persons owning and controlling its securities, the price of the company's securities and the amount of any sales load, how the company's funds are invested, and the relationship between the company and the issuers of the securities in which it invests. Section 2(a)(13) defines an employees' securities company, in relevant part, as any investment company all of whose securities (other than short-term paper) are beneficially owned (a) by current or former employees, or persons on retainer, of one or more affiliated employers, (b) by immediate family members of such persons, or (c) by such employer or employers together with any of the persons in (a) or (b).

2. Section 7 of the Act generally prohibits investment companies that are not registered under section 8 of the Act from selling or redeeming their securities. Section 6(e) of the Act provides that, in connection with any order exempting an investment company from any provision of section 7, certain provisions of the Act, as specified by the Commission, will be applicable to the company and other persons dealing with the company as though the company were registered under the Act. Applicant requests an order under sections 6(b) and 6(e) of the Act exempting applicant from all provisions of the Act, except section 9 and sections 36 through 53 of the Act, and the rules and regulations under the Act (other than rule 38a–1). With respect to sections 17 and 30 of the Act, and the rules and regulations thereunder, the exemption is limited as set forth in the application.

3. Section 17(a) generally prohibits any affiliated person of a registered investment company, or any affiliated person of an affiliated person, acting as principal, from knowingly selling or purchasing any security or other property to or from the company. Since some of the shareholders who hold RCI common stock and THC common stock could be deemed to be controlling shareholders of both companies, THC may be deemed to be under common control with RCI and thus, an affiliated person of RCI pursuant to section 2(a)(3)(C) of the Act. Applicant requests an exemption from section 17(a) to permit: (a) THC to issue loans to RCI which could be viewed as a purchase, by RCI, of securities issued by THC that are not part of a general offering to the holders of a class of THC's securities; [3] and (b) RCI to repay THC's loans through any distributions that Captive may make to its shareholders.

4. Applicant states that an exemption from section 17(a) is consistent with the protection of investors and is necessary to promote the purpose of RCI. Applicant states that the Participants in RCI will be fully informed of the extent of RCI's dealings with THC. Additionally, the community of interest between the Participants and THC will serve to address the concerns under the Act.

5. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, from participating in any joint arrangement with the company unless authorized by the Commission. Applicant requests relief to permit THC to participate in or effect any transaction in connection with, any joint enterprise or other joint arrangement or profit sharing plan in which RCI is a participant. Applicant submits that the joint arrangement between THC and RCI, which was designed to create and maintain a structure that enables THC and its affiliated shareholders to take advantage of favorable federal income tax treatment of the transaction whereby THC may deduct insurance premiums paid to Captive when paid and recognize income for federal income tax purposes when and if it receives retroactive rate reductions from the insurance subsidiaries, may be deemed a joint transaction for purposes of section 17(d) and rule 17d–1 under the Act.

[3] THC will make loans to RCI to fund RCI's purchase of Captive's equity securities and any subsequent capital assessment that Captive may require.

6. Applicant asserts that compliance with section 17(d) would cause RCI to forego investment in the Captive simply because RCI is part of such joint arrangement with affiliated persons. Applicant asserts that the flexibility to structure joint transactions or joint arrangements will not involve abuses of the type section 17(d) and rule 17d–1 were designed to prevent.

7. Section 17(f) of the Act designates the entities that may act as investment company custodians, and rule 17f–2 under the Act imposes certain requirements when the custodian is a registered management investment company. Applicant requests an exemption from section 17(f) and rule 17f–2 to permit the following exceptions from the requirements of rule 17f–2: (a) Compliance with paragraph (b) of the rule may be achieved through safekeeping in the locked files of THC; (b) for purposes of paragraph (d) of the rule, (i) employees of THC will be deemed to be employees of RCI, and (ii) officers of THC will be deemed to be officers of RCI, and (c) instead of the verification procedure under paragraph (f) of the rule, verification will be effected quarterly by two senior level employees of THC. RCI's only investment will be its investment in the Captive and will either not be evidenced by negotiable certificates which could be misappropriated or will be represented by a certificate or certificates registered in RCI's name. Applicant asserts that the evidence of RCI's investment in the Captive is most suitably kept in the files of THC, where it can be referred to as necessary.

8. Section 17(g) of the Act and rule 17g–1 under the Act generally require the bonding of officers and employees of a registered investment company who have access to its securities or funds. Rule 17g–1 requires that a majority of directors who are not interested persons take certain actions and give certain approvals relating to fidelity bonding. Applicant requests exemptive relief to permit the directors of RCI, who may be deemed interested persons, to take actions and make determinations set forth in the rule. Applicant states that, because all of the directors of RCI will likely be affiliated persons, RCI could not comply with rule 17g–1 without the requested relief. Applicant also states that RCI will comply with all other requirements of rule 17g–1, except requirements relating to the provision of notices to the board of directors, the filing of copies of fidelity bonds and related information with the Commission, that RCI have a majority of other disinterested directors, that those disinterested directors select and

nominate any other disinterested director, and that legal counsel for those disinterested directors be independent legal counsel.

9. Section 17(j) of the Act and paragraph (b) of rule 17j–1 under the Act make it unlawful for certain enumerated persons to engage in fraudulent or deceptive practices in connection with the purchase or sale of a security held or to be acquired by a registered investment company. Rule 17j–1 also requires that every registered investment company adopt a written code of ethics and that every access person of a registered investment company report personal securities transactions. Applicant requests an exemption from the provisions of rule 17j–1, except for the anti-fraud provisions of paragraph (b), because they are unnecessarily burdensome as applied to RCI.

10. Applicant requests an exemption from the requirements in sections 30(a), 30(b), and 30(e) of the Act, and the rules under those sections, that registered investment companies prepare and file with the Commission and mail to their shareholders certain periodic reports and financial statements. Applicant contends that the forms prescribed by the Commission for periodic reports have little relevance to RCI and would entail administrative and legal costs that outweigh any benefit to the Participants in RCI. Applicant also requests an exemption from section 30(h) of the Act to the extent necessary to exempt THC, directors and any officer or other persons who may be deemed to be members of an advisory board of RCI from filing Forms 3, 4, and 5 under section 16(a) of the Securities Exchange Act of 1934 with respect to their ownership of RCI common stock. Applicant asserts that, because there will be no trading market and the transfers of RCI common stock will be severely restricted, these filings are unnecessary for the protection of investors and burdensome to those required to make them.

11. Rule 38a–1 requires investment companies to adopt, implement and periodically review written policies reasonably designed to prevent violation of the federal securities laws and to appoint a chief compliance officer. Applicant requests an exemption from the requirements of rule 38a-1 on the basis that they are burdensome and unnecessary and such exemption would be consistent with the policies of the Act. Applicant asserts compliance with the rule would serve little purpose given the limited nature of RCI's operations and since the sole purpose of RCI is to create a structure to provide favorable tax treatment to THC.

Applicant's Conditions

Applicant agrees that any order granting the requested relief will be subject to the following conditions:

1. Transactions otherwise prohibited by section 17(a) or section 17(d) and rule 17d–1 in which RCI is a party (the "Section 17 Transactions") will be effected only if the RCI Board determines that:

(a) The terms of the Section 17 Transaction, including the consideration to be paid or received, are fair and reasonable to the Participants of RCI and do not involve overreaching of RCI or its Participants on the part of any person concerned; and

(b) The Section 17 Transactions are consistent with the interests of the Participants and with RCI's organizational and offering documents.

2. RCI and RCI's Board will maintain and preserve, for the life of RCI and at least six years thereafter, all accounts, books, and other documents as constitute the record forming the basis for the audited financial statements that are to be provided to the Participants, and agree that all such records will be subject to examination by the Commission and its staff. RCI will preserve the accounts, books and other documents required to be maintained in an easily accessible place for the first two years.

3. RCI's Board will send to each Participant who held RCI common stock at any time during the fiscal year then ended, RCI's audited financial statements, which audited financial statements may be presented on a combined basis with THC's financial statements.

For the Commission, by the Division of Investment Management, under delegated authority.

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–3272 Filed 2–14–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

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 a Closed Meeting on Thursday, February 17, 2011 at 1:30 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Paredes, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting scheduled for Thursday, February 17, 2011 will be:

A litigation matter;

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; 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: February 10, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–3451 Filed 2–11–11; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63852; File No. SR–NASDAQ–2011–017]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Fees for Members Using the NASDAQ Market Center

February 7, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on January 27, 2011, The NASDAQ Stock Market LLC ("NASDAQ") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

III below, which Items have been prepared by NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ proposes to modify pricing for NASDAQ members using the NASDAQ Market Center. NASDAQ will implement the proposed change on February 1, 2011. The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/,* at NASDAQ's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASDAQ has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is amending Rule 7018 to make modifications to its pricing schedule for execution and routing of orders through the NASDAQ Market Center. First, with respect to fees for NASDAQ's Closing Cross, NASDAQ is introducing a pricing discount to encourage market participants that might otherwise internalize orders at a price established through the Closing Cross to bring their orders to NASDAQ for full participation in the Closing Cross.

Currently, all "Market-on-Close" and "Limit-on-Close" orders that execute in the Closing Cross pay a fee of $0.0010 per share executed. Under the proposed change, a member that trades through a Market Participant Identifier ("MPID") that qualifies as a High Volume MPID will pay a discounted fee of $0.0001 per share executed with respect to executions of Market-On-Close and Limit-on-Close orders when the same High Volume MPID is on both sides of the trade. For this purpose, a "High Volume MPID" is defined as an MPID through which a member: (a) Executes more than 100 million shares of "Market-On-Close" or "Limit-On-Close" orders in the NASDAQ Closing Cross per month, and (b) has an average daily volume through the NASDAQ Market Center of more than: (1) 95 million shares of liquidity provided, if average total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities is more than 10 billion shares per day during the month; (2) 85 million shares of liquidity provided, if average total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities is between 9,000,000,001 and 10 billion shares per day during the month; (3) 75 million shares of liquidity provided, if average total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities is between 8,000,000,001 and 9 billion shares per day during the month; or (4) 65 million shares of liquidity provided, if average total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities is 8 billion or fewer shares per day during the month. The tier levels for liquidity provision are identical to the tier levels that qualify a member to receive a liquidity provider rebate of $0.00295 per share executed with respect to shares executed through NASDAQ during the regular trading day. Such a member is, by that standard, a member with high volumes of order flow that enhances NASDAQ's market quality through extensive liquidity provision. NASDAQ believes that introducing a volume-based tier in the Closing Cross will maximize the extent to which high volumes of orders are brought to the Closing Cross, rather than being internalized by firms at the price established by the Closing Cross. The change is also reflective of a similar pricing change recently made by the New York Stock Exchange ("NYSE") under which it established a volume discount for participants in its closing process.[3]

Second, NASDAQ is modifying the fee for routing directed orders to the NASDAQ OMX PSX ("PSX") facility of NASDAQ OMX PHLX ("PHLX"), to reflect a change in the fee for executing orders at that venue that is being made as of February 1, 2011.[4] Currently, the fee to access liquidity at PSX is $0.0013 per share executed, and the fee for routing directed orders to PSX is $0.0015 per share executed. With the fee charged by PSX rising to $0.0025 per share executed, the fee for routing directed orders to it will rise to $0.0027 per share executed, thereby maintaining the $0.0002 markup that exists in the current fee schedule.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[5] in general, and with Section 6(b)(4) of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls. NASDAQ believes that the proposal does not constitute an inequitable allocation of fees, as all similarly situated members will be subject to the same fee structure, and access to the Exchange's market is offered on fair and non-discriminatory terms.

The impact of the change in Closing Cost fees will be unambiguously positive or neutral to market participants, since members qualifying for the favorable tier will pay reduced fees for executing orders in the Closing Cross, while members that do not qualify will continue to pay existing fees. Volume-based discounts such as the reduced execution fee proposed here have been widely adopted in the cash equities markets, and are equitable because they are open to all members on an equal basis and provide discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery processes of the Closing Cross. NASDAQ further notes that it operates in a highly competitive market in which market participants can readily favor competing venues, or in this case, internalize orders rather than exposing them to the broader market, if they deem fee levels at a particular venue to be excessive. NASDAQ believes that the fee reduction will help ensure that its Closing Cross continues to attract high levels of participation.

The change for directed orders sent to PSX reflects recent pricing changes by that venue, and allows NASDAQ to maintain the current markup of $0.0002 per share executed for directed orders that it routes to that venue. In this

[3] Securities Exchange Act Release No. 63642 (January 4, 2011), 76 FR 1653 (January 11, 2011) (SR–NYSE–2010–87).

[4] SR–PHLX–2011–11 (January 26, 2011).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(4).

regard, the fees charged and rebates offered by NASDAQ for routing orders to PSX are reasonable and equitable, in that the decision to use NASDAQ as a router is entirely voluntarily, and members can avail themselves of numerous other means of directing orders to PSX, including becoming members of PHLX or using any of a number of competitive routing services offered by other exchanges and brokers.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Because the market for order execution and routing is extremely competitive, members may readily opt to disfavor NASDAQ's execution and routing services if they believe that alternatives offer them better value. NASDAQ's reduction of Closing Cross fees is reflective of the need to ensure that fees are set at competitively viable levels, and its change to routing fees is necessary to reflect pricing changes at PSX.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[7] 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2011–017 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2011–017. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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–NASDAQ–2011–017 and should be submitted on or before March 8, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–3270 Filed 2–14–11; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(a)(ii).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63875; File No. SR–Phlx-2010–183]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Order Granting Approval of Proposed Rule Change Expanding Its Short Term Option Program

February 9, 2011.

I. Introduction

On December 15, 2010, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to expand the Short Term Option Program ("Program") to allow the Exchange to select up to 15 option classes on which Short Term Option Series may be listed. The proposed rule change was published for comment in the **Federal Register** on December 28, 2010.[3] The Commission received no comment letters on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

Currently, Rule 1101A(b)(vi)(A) and Commentary .11(a) to Rule 1012 permit the Exchange to open for trading on any Thursday or Friday that is a business day series of options on no more than five option classes that expire on the Friday of the following business week that is a business day. The Exchange has proposed to increase from five to 15 the number of option classes that may be opened pursuant to the Program.

In its filing, the Exchange stated that, because of the five-class limit imposed by the Program, on numerous occasions it has had to eliminate option classes from the Program in order to select new classes, even though demand remained for the eliminated classes. The Exchange noted that it believes an expansion of the current Program would allow the Exchange to better meet customer demand for short-term option classes.

Phlx stated that it has analyzed its capacity and represented that it believes that it and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to handle the potential additional traffic associated with trading of an expanded number of classes in the Program.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 63594 (December 21, 2010), 75 FR 81689 ("Notice").

Finally the Exchange submitted a report to the Commission providing an analysis of the Program (the "Report"). The Report covered the period from the date of effectiveness of the Program through November 2010, and described the experience of the Exchange with the Program in respect of the options classes included by the Exchange in the Program.[4] The Report was submitted on a confidential basis under separate cover.

III. Discussion

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.[5] Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[6] which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, 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.

The Commission believes that the proposal strikes a reasonable balance between the Exchange's desire to offer a wider array of investment opportunities and the need to avoid unnecessary proliferation of options series. The Commission expects the Exchange to monitor the trading volume associated with the additional options series listed as a result of this proposal and the effect of these additional series on market fragmentation and on the capacity of the Exchange's, OPRA's, and vendors' automated systems.

In approving this proposal, the Commission notes that Exchange has represented that it believes the Exchange and OPRA have the necessary systems capacity to handle the potential additional traffic associated with trading of an expanded number of classes in the Program.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–Phlx-2010–183) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–3315 Filed 2–14–11; 8:45 am]

BILLING CODE 8011–01–P

[4] The Report included the following: (1) Data and written analysis on the open interest and trading volume in the classes for which Short Term Option Series were opened; (2) an assessment of the appropriateness of the option classes selected for the Program; (3) an assessment of the impact of the Program on the capacity of the Exchange, OPRA, and market data vendors (to the extent data from market data vendors are available); (4) any capacity problems or other problems that arose during the operation of the Program and how the Exchange addressed such problems; (5) any complaints that the Exchange received during the operation of the Program and how the Exchange addressed them; and (6) any additional information that would assist in assessing the operation of the Program.

[5] In approving this 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).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63877; File No. SR–CBOE–2011–012]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Expand the Short Term Option Series Program

February 9, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on January 31, 2011, the Chicago Board Options Exchange, Incorporated ("CBOE"or the "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 Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] 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

CBOE proposes to amend Rules 5.5 and 24.9 to expand the Exchange's Short Term Option Series Program ("Weeklys Program") so that the Exchange may select fifteen option classes on which Weekly options may be opened. The text of the rule proposal is available on the Exchange's Web site (*http://www.cboe.org/legal*), at the Exchange's principal office, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend Rules 5.5 and 24.9 to expand the Weeklys Program so that the Exchange may select fifteen option classes on which Weekly options may be opened.[5]

The Weeklys Program is codified in Rule 5.5 and 24.9. These rules provide that after an option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Thursday or Friday that is a business day series of options on no more than five option classes that expire on the Friday of the following business week that is a business day. In addition to the five-option class limitation, there is also a limitation that no more than twenty series for each expiration date in those classes that may be opened for trading.[6] Furthermore, the strike price of

[5] On July 12, 2005, the Commission approved the Weeklys Program on a pilot basis. *See* Securities Exchange Act Release No. 52011 (July 12, 2005), 70 FR 41451 (July 19, 2005) (SR–CBOE–2004–63). The Weeklys Program was made permanent on April 27, 2009. *See* Securities Exchange Act Release No. 59824 (April 27, 2009), 74 FR 20518 (May 4, 2009) (SR–CBOE–2009–018).

[6] However, if the Exchange opens less than twenty (20) Weekly options for a Weekly Option Expiration Date, additional series may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the exercise price or prices of the series already opened. Any additional strike prices listed by the Exchange shall be within thirty percent (30%) above or below the current price of the underlying security. The Exchange may also open additional strike prices of Weekly Option Series that are more than 30% above or below the current price of the underlying security provided that demonstrated customer interest exists for such series, as

each Weekly option has to be fixed with approximately the same number of strike prices being opened above and below the value of the underlying security at about the time that the Weekly options are initially opened for trading on the Exchange, and with strike prices being within thirty percent (30%) above or below the closing price of the underlying security from the preceding day. The Exchange does not propose any changes to these additional Weeklys Program limitations. The Exchange proposes only to increase from five to fifteen the number of option classes that may be opened pursuant to the Weeklys Program.

The principal reason for the proposed expansion is customer demand for adding, or not removing, Weekly option classes from the Program. Since there is reciprocity in matching other exchange's Weekly option choices, CBOE discontinues trading Weekly option classes that other exchanges change from week-to-week. CBOE believes that these class pick changes have negatively impacted investors and traders, particularly retail public customers, who have on several occasions requested the Exchange not to remove Weekly option classes or add Weekly option classes.

CBOE understands that a retail investor recently requested another exchange to reinstate a Weekly option class that that exchange had removed from trading because of the five-class option limit within the Weekly Program. The investor advised that the removed class was as a powerful tool for hedging a market sector, and that various strategies that the investor put into play were disrupted and eliminated when the class was removed. CBOE feels that it is essential that such negative, potentially very costly impacts on retail investors are eliminated by modestly expanding the Program to enable additional classes to be traded.

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to handle the potential additional traffic associated with trading of an expanded number of classes in the Weeklys Program.

The Exchange believes that the Weeklys Program has provided investors with greater trading opportunities and flexibility and the ability to more closely tailor their investment and risk management strategies and decisions. Furthermore, the Exchange has had to eliminate option classes on numerous occasions because of the limitation imposed by the Program.[7] For these reasons, the Exchange requests an expansion of the current Weeklys Program.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act")[8] and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[10] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that expanding the number of classes eligible to participate in the Weeklys Program will allow the investing public and other market participants to better manage their risk exposure, and would benefit investors by giving them more flexibility to closely tailor their investment decisions in a greater number of securities. While the expansion of the Weeklys Program will generate additional quote traffic, the Exchange does not believe that this increased traffic will become unmanageable since the proposal is limited to a fixed number of classes. Further, the Exchange does not believe that the proposal will result in a material proliferation of additional series because it is limited to a fixed number of classes and the Exchange does not believe that the additional price points will result in fractured liquidity.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12]

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal is substantially similar to that of another exchange that has been approved by the Commission.[13] Therefore, the Commission designates the proposal operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

expressed by institutional, corporate or individual customers or their brokers (market-makers trading for their own account shall not be considered when determining customer interest under this provision).

[7] As discussed above, because of the reciprocity provision of the Weeklys Program, the classes that CBOE lists to participate in the Weeklys Program change when another exchange changes its class selections for the Weeklys Program.

[8] 15 U.S.C. 78s(b)(1).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] *See* Securities Exchange Act Release No. 63875 (February 9, 2011) (SR–Phlx–2010–183) (order approving expansion of Short Term Option Program).

[14] 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).

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2011–012 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2011–012. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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–CBOE–2011–012 and should be submitted on or before March 8, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–3317 Filed 2–14–11; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63878; File No. SR–ISE–2011–08]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Expand the Short Term Option Series Program

February 9, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on February 1, 2011, the International Securities Exchange, LLC ("ISE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to expand the Short Term Option Series Program. The text of the proposed rule change is available on the Exchange's Web site *http://www.ise.com,* at the principal office of the Exchange, on the Commission's Web site at *http://www.sec.gov,* and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend ISE Rules 504 and 2009 to expand the Short Term Option Series Program ("STOS Program")[3] so that the Exchange may select fifteen option classes on which Short Term Option Series may be opened.

The STOS Program is codified in Supplementary Material .02 to ISE Rule 504 and Supplementary Material .01 to ISE Rule 2009. These rules state that after an option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Thursday or Friday that is a business day series of options on no more than five option classes that expire on the Friday of the following business week that is a business day. In addition to the five-option class limitation, there is also a limitation that no more than twenty series for each expiration date in those classes that may be opened for trading.[4] Furthermore, the strike price of each short term option has to be fixed with approximately the same number of strike prices being opened above and below the value of the underlying security at about the time that the short term options are initially opened for trading on the Exchange, and with strike prices being within thirty percent (30%) above or below the closing price of the underlying security from the preceding day. The Exchange does not propose any changes to these additional STOS Program limitations. The Exchange proposes only to increase from five to fifteen the number of option classes that may be opened pursuant to the STOS Program.

The principal reason for the proposed expansion is customer demand for

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Short Term Option Series are series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Thursday or Friday that is a business day and that expires on the Friday of the next business week. If a Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Thursday or Friday, respectively. Rules 100(a)(47), 2001(n), Supplementary Material .02 to Rule 504 and Supplementary Material .01 to Rule 2009.

[4] However, if the Exchange opens less than twenty (20) short term options for a Short Term Option Expiration Date, additional series may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the exercise price or prices of the series already opened. Any additional strike prices listed by the Exchange shall be within thirty percent (30%) above or below the current price of the underlying security. The Exchange may also open additional strike prices of Short Term Option Series that are more than 30% above or below the current price of the underlying security provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate or individual customers or their brokers (market-makers trading for their own account shall not be considered when determining customer interest under this provision). Supplementary Material .02(d) to Rule 504 and Supplementary Material .01(d) to Rule 2009.

adding, or not removing, short term option classes from the STOS Program. In order that the Exchange not exceed the five-option class restriction, from time to time the Exchange has had to discontinue trading one short term option class before it could begin trading other option classes within the STOS Program. This has negatively impacted investors and traders, particularly retail public customers. The Exchange feels that it is essential that such negative, potentially very costly impacts on market participants are eliminated by modestly expanding the STOS Program to enable additional classes to be traded.

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to handle the potential additional traffic associated with trading of an expanded number of classes in the STOS Program.

The Exchange believes that the STOS Program has provided investors with greater trading opportunities and flexibility and the ability to more closely tailor their investment and risk management strategies and decisions. The Exchange further believes than an expansion of the current STOS Program will provide investors with additional short term option classes for investment, trading, and risk management purposes.

Finally, the Commission has requested, and the Exchange has agreed for the purposes of this filing, to submit one report to the Commission providing an analysis of the STOS Program (the "Report"). The Report will cover the period from July 2, 2010, the date the Exchange first began to list and trade short term options, through December 31, 2010. The Report will describe the Exchange's experience with the STOS Program in respect of the option classes included by the Exchange in the STOS Program. The Report will be submitted to the Commission on a confidential basis under separate cover.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934[5] (the "Act") in general, and furthers the objectives of Section 6(b)(5) of the Act[6] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange believes that expanding the current STOS Program will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment decisions and hedging decisions in greater number of securities. The Exchange believes that expanding the current STOS Program would provide the investing public and other market participants increased opportunities because an expanded STOS Program would provide market participants additional opportunities to hedge their investment thus allowing these investors to better manage their risk exposure. Moreover, the Exchange believes the proposed rule change would benefit investors by giving them more flexibility to closely tailor their investment decisions in a greater number of securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal is substantially similar to that of another exchange that has been approved by the Commission.[9] Therefore, the Commission designates the proposal operative upon filing.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–ISE–2011–08 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–ISE–2011–08. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] *See* Securities Exchange Act Release No. 63875 (February 9, 2011) (SR–Phlx–2010–183) (order approving expansion of Short Term Option Program).

[10] 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).

provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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–ISE–2011–08 and should be submitted on or before March 8, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–3316 Filed 2–14–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63873; File No. SR–Phlx–2011–16]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Extending the Pilot Period To Receive Inbound Routes of Orders From Nasdaq Options Services

February 9, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 3, 2011, NASDAQ OMX PHLX LLC ("Phlx" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by Phlx. The Exchange has designated the proposed rule change as constituting a non-controversial rule change under Rule 19b–4(f)(6) under the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

Phlx submits this proposed rule change to extend the pilot period of Phlx's prior approval to receive inbound routes of certain option orders from Nasdaq Options Services, LLC ("NOS") through August 25, 2011.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Phlx 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. Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, NOS is the approved outbound routing facility of The NASDAQ Stock Market LLC ("NASDAQ") for options, providing outbound routing from The NASDAQ Option Market ("NOM") to other market centers.[4] Phlx also has been previously approved to receive inbound routes of certain option orders by NOS in its capacity as an order routing facility of NASDAQ for NOM on a pilot basis.[5] The Exchange hereby seeks to extend the previously approved pilot period for such inbound routing (with the attendant obligations and conditions) for an additional 6 months through August 25, 2011.[6]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and with Section 6(b)(5) of the Act,[8] in particular, in that the proposal 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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. Specifically, the proposed rule change will allow the Exchange to continue receiving inbound routes of option orders from NOS acting in its capacity as a facility of NASDAQ for NOM, in a manner consistent with prior approvals and established protections. The Exchange believes that extending the previously approved pilot period for six months is of sufficient length to permit both the Exchange and the Commission to assess the impact of the Exchange's authority to receive direct inbound routes of option orders via NOS (including the attendant obligations and conditions).

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, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[11] However, Rule 19b–

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] NOM Rule Chapter VI, Section 11; *See* Securities Exchange Act Release No. 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR–NASDAQ–2007–004; SR–NASDAQ–2007–080).

[5] *See* Securities Exchange Act Release Nos. 58179 (July 17, 2008), 73 FR 42874 (July 23, 2008) (SR–Phlx–2008–31); 61667 (March 5, 2010), 75 FR 11964 (March 12, 2010) (SR–Phlx–2010–36); 61668 (March 5, 2010), 75 FR 12323 (March 15, 2010) (SR–NASDAQ–2010–028).

[6] During this pilot period, the Exchange will file a separate proposal with the Commission seeking permanent approval of the Phlx and NOS routing relationship.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory

4(f)(6)(iii) [12] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. Phlx has requested that the Commission waive the 30-day operative delay. Phlx believes that the proposed rule change does not significantly affect the protection of investors or the public interest because it seeks to extend for a limited period a currently operating pilot program so as to allow the Exchange and the Commission to assess whether to make the pilot permanent in accordance with its attendant obligations and conditions.[13] The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the pilot period to be extended without undue delay through August 25, 2011. For this reason, the Commission designates the proposed rule change to be operative upon filing with the Commission.[14]

At any time within 60 days of the filing of such 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, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2011–16 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–2011–16. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of Phlx. 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–2011–16 and should be submitted on or before March 8, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Cathy H. Ahn,

Deputy Secretary.

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organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] *Id.*

[13] *See* SR–Phlx–2011–16, Item 7.

[14] For the 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).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63869; File No. SR–NYSEArca–2010–119]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change To List and Trade Shares of the Teucrium WTI Crude Oil Fund

February 8, 2011.

I. Introduction

On December 20, 2010, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to list and trade shares of the Teucrium WTI Crude Oil Fund under NYSE Arca Equities Rule 8.200. The proposed rule change was published for comment in the **Federal Register** on January 6, 2011.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to list and trade shares ("Shares") of the Teucrium WTI Crude Oil Fund ("Fund") pursuant to NYSE Arca Equities Rule 8.200. NYSE Arca Equities Rule 8.200, Commentary .02, permits the trading of Trust Issued Receipts either by listing or pursuant to unlisted trading privileges.[4]

The Shares represent beneficial ownership interests in the Fund, which is a commodity pool that is a series of the Teucrium Commodity Trust ("Trust"), a Delaware statutory trust.[5] The Fund is managed and controlled by Teucrium Trading, LLC ("Sponsor"). The Sponsor is a Delaware limited liability company that is registered as a commodity pool operator with the Commodity Futures Trading Commission ("CFTC") and is a member of the National Futures Association.

The investment objective of the Fund is to have the daily changes in percentage terms of the Shares' net asset value ("NAV") reflect the daily changes in percentage terms of a weighted average of a weighted average of the closing settlement prices for futures contracts for Western Texas Intermediate ("WTI") crude oil, also known as Texas Light Sweet crude oil ("Oil Futures Contracts") traded on the New York Mercantile Exchange ("NYMEX"), specifically (1) the nearest to spot June or December Oil Futures Contract, weighted 35%; (2) the June or

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 63625 (December 30, 2010), 76 FR 807 ("Notice").

[4] Commentary .02 to NYSE Arca Equities Rule 8.200 applies to Trust Issued Receipts that invest in "Financial Instruments." The term "Financial Instruments," as defined in Commentary .02(b)(4) to NYSE Arca Equities Rule 8.200, means any combination of investments, including cash; securities; options on securities and indices; futures contracts; options on futures contracts; forward contracts; equity caps, collars and floors; and swap agreements.

[5] *See* Amendment No. 1 to registration statement on Form S–1 for Teucrium Commodity Trust, dated September 7, 2010 (File No. 333–167593) relating to the Teucrium Natural Gas Fund ("Registration Statement").

December Oil Futures Contract following the aforementioned (1), weighted 30%; and (3) the December Oil Futures Contract following the aforementioned (2),[6] weighted 35%; before taking Fund expenses and interest income into account. The Sponsor employs a "neutral" investment strategy intended to track the changes in the Oil Benchmark regardless of whether the Oil Benchmark goes up or down.

The Fund seeks to achieve its investment objective by investing under normal market conditions in Oil Benchmark Component Futures Contracts or, in certain circumstances, in other Oil Futures Contracts traded on the NYMEX and to a lesser extent the IntercontinentalExchange ("ICE"). The Fund may also invest in other kinds of crude oil futures contracts traded on the NYMEX or ICE or on other domestic or foreign exchanges. In addition, and to a limited extent, the Fund will invest in crude oil-based swap agreements that are cleared through the NYMEX or ICE or their affiliated providers of clearing services ("Cleared Oil Swaps") in furtherance of the Fund's investment objective, and to the extent permitted and appropriate in light of the liquidity in the Cleared Oil Swaps market. Once position limits and accountability levels in Oil Futures Contracts are applicable, the Fund's intention is to invest first in Cleared Oil Swaps to the extent permitted by the position limits and accountability levels applicable to Cleared Oil Swaps and appropriate in light of the liquidity in the Cleared Oil Swaps market,[7] and then in contracts or instruments such as cash-settled options on Oil Futures Contracts and forward contracts, swaps other than Cleared Oil Swaps, and other over-the-counter transactions that are based on the price of crude oil and Oil Futures Contracts (collectively, "Other Oil Interests," and together with Oil Futures Contracts and Cleared Oil Swaps, "Oil Interests").[8]

The Exchange represents that the Fund will meet the initial and continued listing requirements applicable to Trust Issued Receipts in NYSE Arca Equities Rule 8.200 and Commentary .02 thereto. With respect to application of Rule 10A–3 under the Act,[9] the Trust will rely on the exception contained in Rule 10A–3(c)(7).[10] A minimum of 100,000 Shares will be outstanding as of the start of trading on the Exchange.

Additional details regarding the trading policies of the Fund, creations and redemptions of the Shares, Oil Interests and other aspects of the WTI crude oil and Oil Interest markets, investment risks, Benchmark performance, NAV calculation, the dissemination and availability of information about the underlying assets, trading halts, applicable trading rules, surveillance, and the Information Bulletin, among other things, can be found in the Notice and/or the Registration Statement, as applicable.[11]

III. Discussion and Commission's Findings

After careful consideration, the Commission finds that the proposed rule change to list and trade the Shares is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[12] In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act,[13] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Commission finds that the proposal to list and trade the Shares on the Exchange is also consistent with Section 11A(a)(1)(C)(iii) of the Act,[14] which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the Consolidated Tape Association ("CTA"), and the Benchmark will be disseminated by one or more major market data vendors every 15 seconds during the NYSE Arca Core Trading Session of 9:30 a.m. to 4 p.m. Eastern Time ("E.T."). In addition, the Indicative Trust Value ("ITV") will be disseminated on a per-Share basis by one or more major market data vendors every 15 seconds during the NYSE Arca Core Trading Session.[15] The Fund will provide Web site disclosure of portfolio holdings daily and will include, as applicable, the names, quantity, price, and market value of Financial Instruments[16] and the characteristics of such instruments and cash equivalents, and amount of cash held in the portfolio of the Fund. The closing price and settlement prices of the Oil Futures Contracts are also readily available from the NYMEX (*http://www.cmegroup.com*) and ICE (*http://www.theice.com*), automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. The NAV for the Fund will be calculated by the Administrator once a day and will be disseminated daily to all market participants at the same time, and the Web site for the Fund (*http://www.teucriumoilfund.com*) and/or the Exchange will contain the prospectus and additional data relating to NAV and other applicable quantitative information.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. If the Exchange becomes aware that the NAV with respect to the Shares is not

[6] *See* e-mail from Michael Cavalier, Chief Counsel, NYSE Euronext, to Christopher W. Chow, Special Counsel, Commission, dated December 22, 2010.

[7] *See* e-mail from Michael Cavalier, Chief Counsel, NYSE Euronext, to Christopher W. Chow, Special Counsel, Commission, dated December 27, 2010.

[8] The Commission has previously approved listing of similar funds which held forward contracts or swaps on the American Stock Exchange ("Amex") and NYSE Arca. *See, e.g.,* Securities Exchange Act Release Nos. 53582 (March 31, 2006), 71 FR 17510 (April 6, 2006) (SR–Amex–2005–127) (order approving Amex listing of United States Oil Fund, LP); 57188 (January 23, 2008), 73 FR 5607 (January 30, 2008) (SR–Amex–2007–70) (order approving Amex listing of United States Heating Oil Fund, LP and United States Gasoline Fund, LP); 61881 (April 9, 2010), 75 FR 20028 (April 16, 2010) (SR–NYSEArca–2010–14) (order approving listing and trading of United States Brent Oil Fund, LP); and 62527 (July 19, 2010), 75 FR 43606 (July 26, 2010) (order approving listing and trading of United States Commodity Index Fund).

[9] 17 CFR 240.10A–3.

[10] 17 CFR 240.10A–3(c)(7).

[11] *See supra* notes 3 and 5.

[12] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[15] The normal trading hours for Oil Futures Contracts on NYMEX are 9 a.m. to 2:30 p.m. E.T. The ITV will not be updated, and, therefore, a static ITV will be disseminated, between the close of trading on NYMEX of Oil Futures Contracts and the close of the NYSE Arca Core Trading Session. The value of a Share may be influenced by non-concurrent trading hours between NYSE Arca and the NYMEX and ICE when the Shares are traded on NYSE Arca after normal trading hours of Oil Futures Contracts.

[16] *See supra* note 4.

disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants. Further, the Exchange represents that it may halt trading during the day in which an interruption to the dissemination of the ITV or the value of the underlying futures contracts occurs. If the interruption to the dissemination of the ITV or the value of the underlying futures contracts persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, the Web site disclosure of the portfolio composition of the Fund will occur at the same time as the disclosure by the Sponsor of the portfolio composition to Authorized Purchasers (as defined in the Registration Statement) so that all market participants are provided portfolio composition information at the same time. Therefore, the same portfolio information will be provided on the public Web site as well as in electronic files provided to Authorized Purchasers. Accordingly, each investor will have access to the current portfolio composition of the Fund through the Fund's Web site. Lastly, the trading of the Shares will be subject to NYSE Arca Equities Rule 8.200, Commentary .02(e), which sets forth certain restrictions on ETP Holders [17] acting as registered Market Makers [18] in Trust Issued Receipts to facilitate surveillance.

The Exchange has represented that the Shares are deemed equity securities subject to the Exchange's rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including the following:

(1) The Fund will meet the initial and continued listing requirements applicable to Trust Issued Receipts in NYSE Arca Equities Rule 8.200 and Commentary .02 thereto.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) The Exchange's surveillance procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable Federal securities laws.

(4) With respect to Fund assets traded on exchanges, not more than 10% of the weight of such assets in the aggregate shall consist of components whose principal trading market is not a member of the Intermarket Surveillance Group or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

(5) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) The risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated ITV will not be calculated or publicly disseminated; (b) the procedures for purchases and redemptions of Shares (and that Shares are not individually redeemable); (c) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (d) how information regarding the ITV is disseminated; (e) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(6) A minimum of 100,000 Shares will be outstanding as of the start of trading on the Exchange.

(7) With respect to the application of Rule 10A–3 under the Act, the Trust will rely on the exception contained in Rule 10A–3(c)(7).[19]

This approval order is based on the Exchange's representations.[20]

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[21] that the proposed rule change (SR–NYSEArca–2010–119) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–3271 Filed 2–14–11; 8:45 am]

BILLING CODE 8011–01–P

[17] *See* NYSE Arca Equities Rule 1.1(n) (defining ETP Holder).

[18] *See* NYSE Arca Equities Rule 1.1(u) (defining Market Maker).

[19] *See supra* notes 9 and 10 and accompanying text.

[20] The Commission notes that it does not regulate the market for the futures in which the Fund plans to take positions, which is the responsibility of the CFTC. The CFTC has the authority to set limits on the positions that any person may take in futures on commodities. These limits may be directly set by the CFTC, or by the markets on which the futures are traded. The Commission has no role in establishing position limits on futures in commodities, even though such limits could impact a commodity-based exchange-traded product that is under the jurisdiction of the Commission.

[21] 15 U.S.C. 78f(b)(2).

[22] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12467]

Arizona Disaster #AZ–00015 Declaration of Economic Injury

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of Arizona, dated 02/07/2011.

Incident: Rainfall, Flooding and Flash Flooding.

Incident Period: 10/03/2010 through 10/06/2010.

Effective Date: 02/07/2011.

EIDL Loan Application Deadline Date: 11/07/2011.

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 EIDL declaration, applications for economic injury 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: Coconino.

Contiguous Counties:

Arizona: Gila, Mohave, Navajo, Yavapai.

Utah: Kane, San Juan.

The Interest Rates are:

	Percent
Businesses And 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 economic injury is 124670.

The States which received an EIDL Declaration # are Arizona, Utah.

(Catalog of Federal Domestic Assistance Number 59002)

Dated: February 7, 2011.

Karen G. Mills,

Administrator.

[FR Doc. 2011–3295 Filed 2–14–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12465 and #12466]

New Jersey Disaster #NJ–00019

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 New Jersey (FEMA–1954–DR), dated 02/04/2011.

Incident: Severe Winter Storm and Snowstorm.

Incident Period: 12/26/2010 through 12/27/2010.

Effective Date: 02/04/2011.

Physical Loan Application Deadline Date: 04/05/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 11/04/2011.

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 02/04/2011, 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: Bergen, Burlington, Cape May, Essex, Hudson, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Union

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere	3.250
Non-Profit Organizations without Credit Available Elsewhere	3.000
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 12465B and for economic injury is 12466B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–3296 Filed 2–14–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 08/78–0157 issued to Wolf Ventures Fund III, L. P., and said license is hereby declared null and void as of August 4, 2010.

United States Small Business Administration.

Sean J. Greene,

AA/Investment.

[FR Doc. 2011–3297 Filed 2–14–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 09/79–0418 issued to Selby Venture Partners, L.P., and said license is hereby declared null and void.

United States Small Business Administration.

Dated: February 7, 2011.

Sean J. Greene,

AA/Investment.

[FR Doc. 2011–3299 Filed 2–14–11; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

On Behalf of the Accessibility Committee of the Federal CIO Council (29 U.S.C. 794d); Listening Session on Improving the Accessibility of Government Information

AGENCY: CIO Council, SSA.

ACTION: Notice of meeting.

SUMMARY: This notice announces a listening session on improving the accessibility of government information. Section 508 of the Rehabilitation Act (29 U.S.C. 794d) requires federal agencies to buy and use electronic and information technology (EIT) that is accessible. On July 19, 2010, the Office of Management and Budget (OMB) issued to a memo to federal agencies on "Improving the Accessibility of Government Information" which directs them to take stronger steps toward improving the acquisition and implementation of accessible technology. In order to better understand the needs of diverse communities and provide better solutions, the U.S. Council of CIOs, in collaboration with the Chief Acquisition Officers Council, the GSA Office of Governmentwide Policy, and the U.S. Access Board, is holding the first in a series of listening sessions to encourage citizens and employees to express their concerns and propose ideas. Persons with disabilities, their advocates, and government employees are invited to participate.

DATES: *Meeting Date:* The listening session will be held on Thursday, March 17, 2011, from 1:50 p.m. to 5:20 p.m. Pacific Time (PT).

Persons wishing to address the panel at the listening session can pre-register by contacting Emily Koo at (410) 965–4472 or *Innovate.Accessibility@ssa.gov.* Pre-registrants will be given priority in addressing the panel in San Diego. Registration will also be available in person in San Diego on the afternoon of the listening session.

ADDRESSES: *Meeting Location:* The listening session will be held at the Manchester Grand Hyatt Hotel, One Market Place, San Diego, California 92101 in the Randle E Meeting Room.

Accommodations: The listening session will have sign language interpreters, CART (real time captioning) services, Assistive Listening

Devices (ALDs), and microphones. Materials will be available in Braille, large print, and electronic formats. The Manchester Grand Hyatt Hotel is wheelchair accessible. Anyone needing other accommodations should include a specific request when registering in advance.

FOR FURTHER INFORMATION CONTACT: Emily Koo at (410) 965–4472 or *Innovate.Accessibility@*ssa.gov.

SUPPLEMENTARY INFORMATION: In 1998, Congress amended the Rehabilitation Act of 1973 to require Federal agencies to make their electronic and information technology (EIT) accessible to people with disabilities. Inaccessible technology interferes with the ability to obtain and use information quickly and easily. Section 508 of the Act was enacted to eliminate barriers in information technology, open new opportunities for people with disabilities, and encourage development of technologies that will help achieve these goals. The law applies to all Federal agencies when they develop, procure, maintain, or use electronic information technology. Under Section 508 (29 U.S.C. 794d), agencies must give disabled employees and members of the public access to information that is comparable to access available to others.

Effective implementation of Section 508 is an essential element of President Obama's principles of open government—requiring that all government and data be accessible to all citizens. In order for the goal of open government to be meaningful for persons with disabilities, technology must also be accessible, including digital content. In July 2010, OMB took steps to ensure that the Federal Government's progress in implementing Section 508 is stronger and achieves results more quickly.

Section 508 requires the General Services Administration (GSA) to provide technical assistance to agencies on Section 508 implementation. GSA has created a number of tools, available at *http://www.Section508.gov,* to help agencies to develop accessible requirements, test the acceptance process, and share lessons learned and best practices. For example:

- The BuyAccessible Wizard (*http://www.buyaccessible.gov*) helps build compliant requirements and solicitations;
- The Quick Links site (*https://app.buyaccessible.gov/baw/KwikLinksMain.jsp*) provides pre-packaged Section 508 solicitation documents;
- The BuyAccessible Products and Services Directory (*https://app.buyaccessible.gov/DataCenter/*) provides a registry of companies and accessibility information about their offerings; and
- The Section 508 blog (*http://buyaccessible.net/blog/*) provides a venue where stakeholders may share ideas and success stories, or engage in conversations on improving accessibility.

OMB has directed that several actions be taken to improve Section 508 performance:

- By mid-January 2011, GSA's Office of Governmentwide Policy (OGP) is required to provide updated guidance on making government EIT accessible. This guidance will build upon existing resources to address challenges, increase oversight, and reduce costs associated with acquiring and managing EIT solutions that are not accessible.
- By mid-January 2011, GSA's OGP is required to update its general Section 508 training to offer refreshed continuous learning modules that can be used by contracting officers, program/project managers (especially those managing IT programs), and contracting officer technical representatives (COTRs), as they fulfill their Federal Acquisition Certification requirements.
- GSA's OGP and the Department of Justice (DOJ) will issue a survey to allow agencies to assess their implementation of Section 508, including accessibility of websites and other technology used by the agencies. DOJ will use this information in preparing its next assessment of agency compliance as required by the Rehabilitation Act. The Accessibility Committee of the Federal CIO Council will also use this information to identify best practices and lessons learned.
- In the spring of 2011, DOJ will issue a progress report on Federal agency compliance with Section 508, the first since 2004. Going forward, DOJ will meet its obligation to issue a report biennially.
- Beginning in FY 2011, GSA's OGP will begin providing a quarterly summary report to OMB containing results of Section 508 reviews of a sample of solicitations posted on FedBizOpps.gov. GSA will provide the agencies with a summary of the sampling results to facilitate sharing of best practices and successes, and to address common challenges.

This listening session hosted by Accessibility Committee of the Federal CIO Council will focus on what other steps the federal government can take to increase the accessibility and usability of government information and data for persons with disabilities. Input is sought on the following questions:

- What can technology do to improve things for people with disabilities?
- What can the Federal Government do to use technology better or in new ways?
- What can the Federal Government do to make technology more accessible?
- What emerging technologies used by the Federal Government leave you out?
- What technologies should the Federal Government use to enhance your interactions with it?
- What are State and local governments doing to improve information technology accessibility that the Federal Government should follow?
- What is academia doing to implement IT accessibility that the Federal government should follow?
- What is private industry doing to implement IT accessibility that the Federal government should follow?
- What can the Federal government do to influence technology accessibility?
- What can the Federal government do to support the availability of effective Communities of Practice on IT accessibility?
- From the perspective of Federal employees, how has Section 508 improved your ability to do your job? How can implementation of Section 508 be improved?
- From the perspective of Federal employees, state employees and members of the public, do you want training on Section 508? What is the best way for you to learn about Section 508 and how it impacts your job or your access to government Web sites?
- From the perspective of vendors, how can implementation of Section 508 be improved?
- What could the Federal Government ask for that would allow vendors to better show that their products meet accessibility needs?
- What improvements could be made to the methods and processes used to establish whether a product is accessible (*i.e.,*VPATs)?
- Do you believe the IT industry would benefit from a professional certification or credential that denotes a company's expertise in accessibility? How could that be implemented and managed, and should the government play a role in making that happen?

Feedback from the listening session will be used by, and shared across,

agencies to improve accessibility and usability.

Karen Palm,

Associate Chief Information Officer.

[FR Doc. 2011–3311 Filed 2–14–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice: 7336]

30-Day Notice of Proposed Information Collection: Form DS–3097, Exchange Visitor Program Annual Report, OMB Control Number 1405–0151

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Exchange Visitor Program Annual Report.
- *OMB Control Number:* 1405–0151.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Educational and Cultural Affairs, Office of Designation, ECA/EC/D/PS.
- *Form Number:* Form DS–3097.
- *Respondents:* designated J–1 program sponsors.
- *Estimated Number of Respondents:* 1460.
- *Estimated Number of Responses:* 1460 annually.
- *Average Hours per Response:* 2 hours.
- *Total Estimated Burden:* 2920 hours.
- *Frequency:* Annually.
- *Obligation to Respond:* Required to Retain a Benefit.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from February 15, 2011.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *E-mail: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from Stanley S. Colvin, Deputy Assistant Secretary for Private Sector Exchange, Department of State, SA–5, Floor 5, 2200 C Street, NW., Washington, DC 20522–0505, who may be reached at (202) 632–2805, fax at 202–632–2701 or e-mail at *JExchanges@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform 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.

Abstract of proposed collection:

Annual reports from designated program sponsors assist the Department in oversight and administration of the J–1 visa program. The reports provide statistical data on the number of exchange participants an organization sponsored per category. Program sponsors include government agencies, academic institutions, not-for-profit and for-profit organizations.

Methodology:

Annual reports are run through the Student and Exchange Visitor Information System (SEVIS) and then printed and sent to the Department. The Department allows sponsors to submit annual reports by mail or fax at this time. There are measures being taken to allow sponsors to submit the reports electronically through SEVIS in the future.

Dated: February 4, 2011.

Stanley S. Colvin,

Deputy Assistant Secretary for Private Sector Exchange, Bureau of Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 2011–3384 Filed 2–14–11; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2011–0019]

Agency Information Collection Activities: Revision and Approval of Information Collection; Comments Requested

AGENCY: Office of the Secretary (OST), DOT.

ACTION: Notice.

SUMMARY: The Department of Transportation (DOT) invites public comments on a request to the Office of Management and Budget (OMB) to approve the revision and amendment of a previously approved Information Collection Request (OMB Control # 2105–0563) in accordance with the requirements of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3501 *et seq.*).

The previous approval granted the Department of Transportation authority to collect information involving National Infrastructure Investments or "TIGER II" Discretionary Grants pursuant to Title I of the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act for 2010 (the "FY 201 Appropriations Act"). The Office of the Secretary of Transportation ("OST") is referring to these grants as "TIGER II Discretionary Grants." The original collection of information was necessary in order to receive applications for grant funds pursuant to the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act of 2010 ("FY 2010 Appropriations Act"), Title I—Department of Transportation, Office of the Secretary, National Infrastructure Investments, Public Law 111–117, 123 Stat. 3034. The purpose of the TIGER II Discretionary Grants program is to advance projects that will have a significant impact on the Nation, Metropolitan area or a region.

This revision revises the original request to include an additional information collection. The additional information to be collected will be used to, and is necessary to, evaluate the effectiveness of projects that have been awarded grant funds and to monitor project financial conditions and project progress in support of the Supplemental Discretionary Grants for Capital Investments in Surface Transportation Infrastructure, referred to by the Department as "Grants for Transportation Investment Generating Economic Recovery", or "TIGER" Discretionary Grants program authorized and implemented pursuant to the American Recovery and Reinvestment Act of 2009 (the "Recovery Act") (*OMB Control Number:* 2105–0560) and the grants for National Infrastructure Investments under the FY 2010 Appropriations Act or TIGER II" Discretionary Grants. The purposes of the TIGER and TIGER II Discretionary Grant programs include promoting economic recovery and supporting projects that have a significant impact on the Nation, a metropolitan area, or a region.

DATES: Written comments should be submitted by April 18, 2011.

ADDRESSES: You may submit comments [identified by Docket No. DOT–OST–2011–0019] through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Robert Mariner, Office of the Assistant Secretary for Transportation Policy, at 202–366–8914 or *Robert.Mariner@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: National Infrastructure Investments Grant Program or "TIGER II Discretionary Grants"

OMB Control Number: 2105–0563.

Form Numbers: None.

Type of Review: Revision of an information collection.

Expected Number of Respondents: 126.

Frequency: Quarterly, and Yearly.

Estimated Average Burden per Response: 8 hours for each Quarterly Progress and Monitoring Report; 8 hours for each Annual Budget Review; 8 hours for each Quarterly Performance Measurement Report.

Estimated Total Annual Burden: 9,072 hours.

Abstract: On February 17, 2009, the President of the United States signed the Recovery Act to, among other purposes, (1) preserve and create jobs and promote economic recovery, (2) invest in transportation infrastructure that will provide long-term economic benefits, and (3) assist those most affected by the current economic downturn. The Recovery Act appropriated $1.5 billion of discretionary grant funds to be awarded by the Department of Transportation for capital investments in surface transportation infrastructure. The Department refers to these grants as "Grants for Transportation Investment Generating Economic Recovery" or "TIGER" Discretionary Grants. Funding for 51 projects totaling nearly $1.5 billion under the TIGER program was announced on February 17, 2010. Projects were selected based on their alignment with the selection criteria specified in the **Federal Register** notice for the TIGER Discretionary Grant program. On December 16, 2009 the President signed the FY 2010 Appropriations Act. The FY 2010 Appropriations Act appropriated $600 million for National Infrastructure Investments using language that is very similar, but not identical to the language in the Recovery Act authorizing the TIGER Discretionary Grants. The Department is referring to the grants for National Infrastructure Investments as TIGER II Discretionary Grants. Like the TIGER Discretionary Grants, TIGER II Discretionary Grants are for capital investments in surface transportation infrastructure and are to be awarded on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region. Funding for 75 projects totaling nearly $600 million under the TIGER II program was announced on October 20, 2010. Projects were selected based on their alignment with the selection criteria specified in the **Federal Register** notice for the TIGER II Discretionary Grant program. As announced in the **Federal Register** notices for each of the TIGER and TIGER II Discretionary Grant programs, grantees are expected to provide information to the Government so that the Government may monitor the financial conditions and progress of projects, as well as the effectiveness of projects using performance measurement metrics negotiated between the grantees and the Government.

This request revises the existing PRA clearance to cover additional information from grantees that is necessary to negotiate the grant agreements and to cover the reporting requirements agreed to by the grant recipients of the TIGER and TIGER II Discretionary Grant programs. The reporting requirements are as follows:

Grantees will submit reports on the financial condition of the project and the project's progress. Grantees will submit progress reports and the Federal Financial Report (SF–425) to the Government on a quarterly basis, beginning on the 20th of the first month of the calendar-year quarter following the execution of a grant agreement, and on the 20th of the first month of each calendar-year quarter thereafter until completion of the project. The initial quarterly report will include a detailed description, and, where appropriate, drawings, of the items funded.

Grantees will also submit an Annual Budget Review and Program Plan to the Government, via e-mail, 60 days prior to the end of each Agreement year that they are receiving grant funds. The Annual Budget Review and Program Plan will provide a detailed schedule of activities, estimate of specific performance objectives, include forecasted expenditures, and a schedule of milestones for the upcoming year. If there is an actual or projected project cost increase, the Annual Budget Review and Program Plan will include a written plan for providing additional sources of funding to cover the project budget shortfall or supporting documentation of committed funds to cover the cost increase.

This information will be used to monitor grantees' use of Federal funds, ensuring accountability and financial transparency in the TIGER and TIGER II Discretionary Grant programs.

Grantees will also submit reports on the performance (or projected performance) of the project using performance measures that the grantee and the Government selected through negotiations. The grantees will submit a Pre-project Report that will consist of current baseline data for each of the performance measures specified in the Performance Measurement Table in the grant agreement negotiated between the grantee and the Government. The Pre-project Report will include a detailed description of data sources, assumptions, variability, and the estimated level of precision for each measure. The grantees will submit quarterly Project Performance Measurement Reports to the Government for each of the performance measures specified in the Performance Measurement Table in the grant agreement negotiated between the grantee and the Government. Grantees will submit reports at each of the intervals identified for the duration of the time period specified in the Performance Measurement Table in the grant agreement negotiated between the grantee and the Government. The grantees will submit a Project Outcomes Report after the project is completed that will consist of a narrative discussion detailing project successes and/or the influence of external factors on project expectations.

Respondents will have the opportunity to submit the information either electronically or by using fillable PDF, word processing or spreadsheet files. This information will be used to evaluate and compare projects and to monitor results that grant funds achieve, ensuring that grant funds achieved the outcomes targeted by the TIGER and TIGER II Discretionary Grant programs.

The following is detailed information and instructions regarding the specific reporting requirements for each report identified above:

TIGER and TIGER II Discretionary Grant program grantees will submit a Project Progress and Monitoring Report

and the Federal Financial Report (SF–425) to the Government on a quarterly basis. Grantees should use the following structure when preparing the quarterly Project Progress and Monitoring Report.

- *Project Progress and Monitoring Report*
  - *Frequency:* Quarterly (on the 20th of the first month of the calendar quarter)
  - *Report covers:* Previous quarter, along with a two-quarter forecast.
  - *Start:* Upon award of grant.
  - *End:* Once construction is complete.
  - *Format/Fields and accompanying instructions (beyond project ID information):*

1. Executive Summary.—A clear and concise summary of the current status of the project, including identification of any major issues that have an impact on the project's scope, budget, schedule, quality, or safety, including:

- Current total project cost (forecast) vs. latest budget vs. baseline budget. Include an explanation of the reasons for any deviations from the approved budget.
- Current overall project completion percentage vs. latest plan percentage.
- Any delays or exposures to milestone and final completion dates. Include an explanation of the reasons for the delays and exposures.
- A summary of the projected and actual dates for notices to proceed for significant contracts, start of construction, start of expenditure of TIGER and TIGER II Discretionary Grant funds, and project completion date. Include an explanation of the reasons for any discrepancies from the corresponding project milestone dates included in the Agreement.
- Any Federal obligations and/or TIFIA disbursements occurring during the month versus planned obligations or disbursements.
- Any significant contracts advertised, awarded, or completed.
- Any significant scope of work changes.
- Any significant items identified as having deficient quality.
- Any significant safety issues.
- Any significant Federal issues such as environmental compliance, Buy America/Buy American (whichever is applicable to this Project), Davis Bacon Act Prevailing Wage requirements, etc.

2. Project Activities and Deliverables.—(1) Highlighting the project activities and deliverables occurring during the previous quarter (reporting period), and (2) define the activities and deliverables planned for the next two reporting periods. Activities and deliverables to be reported on should include meetings, audits and other reviews, design packages submitted, advertisements, awards, construction submittals, construction completion milestones, submittals related to Recovery Act requirements, media or Congressional inquiries, value engineering/constructability reviews, and other items of significance. The two reporting period "look ahead schedule" will enable the Government to accommodate any activities requiring input or assistance.

3. Action Items/Outstanding Issues.—Drawing attention to, and tracking the progress of, highly significant or sensitive issues requiring action and direction in order to resolve. In general, issues and administrative requirements that could have a significant or adverse impact to the project's scope, budget, schedule, quality, safety, and/or compliance with Federal requirements should be included. Status, responsible person(s), and due dates should be included for each action item/outstanding issue. Action items requiring action or direction should be included in the quarterly status meeting agenda. The action items/outstanding issues may be dropped from this section upon full implementation of the remedial action, and upon no further monitoring anticipated.

4. Project Schedule.—An updated master program schedule reflecting the current status of the program activities should be included in this section. A Gantt (bar) type chart is probably the most appropriate for quarterly reporting purposes, with the ultimate format to be agreed upon between the grantee and the Government. It is imperative that the master program schedule be integrated, *i.e.,* the individual contract milestones tied to each other, such that any delays occurring in one activity will be reflected throughout the entire program schedule, with a realistic completion date being reported. Narratives, tables, and/or graphs should accompany the updated master program schedule, basically detailing the current schedule status, delays and potential exposures, and recovery efforts. The following information should also be included:

- Current overall project completion percentage vs. latest plan percentage.
- Completion percentages vs. latest plan percentages for major activities such as right-of-way, major or critical design contracts, major or critical construction contracts, and significant force accounts or task orders. A schedule status description should also be included for each of these major or critical elements.
- Any delays or potential exposures to milestone and final completion dates. The delays and exposures should be quantified and overall schedule impacts assessed. The reasons for the delays and exposures should be explained, and initiatives being analyzed or implemented in order to recover the schedule should be detailed.

5. Project Cost.—An updated cost spreadsheet reflecting the current forecasted cost vs. the latest approved budget vs. the baseline budget should be included in this section. One way to track project cost is to show: (1) Baseline Budget, (2) Latest Approved Budget, (3) Current Forecasted Cost Estimate, (4) Expenditures or Commitments To Date, and (5) Variance between Current Forecasted Cost and Latest Approved Budget. Line items should include all significant cost centers, such as prior costs, right-of-way, preliminary engineering, environmental mitigation, general engineering consultant, section design contracts, construction administration, utilities, construction packages; force accounts/task orders, wrap-up insurance, construction contingencies, management contingencies, and other contingencies. The line items can be broken-up in enough detail such that specific areas of cost change can be sufficiently tracked and future improvements made to the overall cost estimating methodology. A Program Total line should be included at the bottom of the spreadsheet. Narratives, tables, and/or graphs should accompany the updated cost spreadsheet, basically detailing the current cost status, reasons for cost deviations, impacts of cost overruns, and efforts to mitigate cost overruns. The following information should be provided:

- Reasons for each line item deviation from the approved budget, impacts resulting from the deviations, and initiatives being analyzed or implemented in order to recover any cost overruns.
- Transfer of costs to and from contingency line items, and reasons supporting the transfers.
- Speculative cost changes that potentially may develop in the future, a quantified dollar range for each potential cost change, and the current status of the speculative change. Also, a comparison analysis to the available contingency amounts should be included, showing that reasonable and sufficient amounts of contingency remain to keep the project within the latest approved budget.
- Detailed cost breakdown of the general engineering consultant (GEC) services (if applicable), including such

line items as contract amounts, task orders issued (amounts), balance remaining for tasks, and accrued (billable) costs.

• Federal obligations and/or TIFIA disbursements for the project, compared to planned obligations and disbursements.

6. Project Funding Status.—The purpose of this section is to provide a status report on the non-TIGER and non-TIGER II Discretionary Grant funds necessary to complete the project. This report section should include a status update of any legislative approvals or other actions necessary to provide the non-TIGER and non-TIGER II Discretionary Grant funds to the project. Such approvals might include legislative authority to charge user fees or set toll rates, or the commitment of local funding revenues to the project. In the event that there is an anticipated or actual project cost increase, the project funding status section should include a report on the anticipated or actual source of funds to cover the cost increase and any significant issues identified with obtaining additional funding.

7. Project Quality.—The purpose of this section is to: (1) Summarize the Quality Assurance/Quality Control activities during the previous month (reporting period), and (2) highlight any significant items identified as being deficient in quality. Deficient items noted should be accompanied by reasons and specifics concerning the deficiencies, and corrective actions taken or planned. In addition, the agency or firm responsible for the corrective action should be documented. Planned corrective actions should then be included as Action Items/Outstanding Issues.

8. Federal Financial Report (SF–425).—The Federal Financial Report (SF–425) (available at *http://www.forms.gov/bgfPortal/docDetails.do?dId=15149*) is a financial reporting form used throughout the Federal Government Grant system. Grantees should complete this form and attach it to each quarterly Project Progress and Monitoring Report.

TIGER and TIGER II Discretionary Grant program grantees will submit an Annual Budget Review and Program Plan to the Government 60 days prior to the end of each Agreement year that they are receiving grant funds. Grantees should use the following structure when preparing the Annual Budget Review Report.

• *Annual Budget Review Report*

○ *Frequency:* Yearly (60 days before the end of the Agreement year).

○ *Report covers:* Upcoming Agreement year.

○ *Start:* 60 days before first anniversary of grant award.

○ *End:* Once construction is complete.

○ *Format/Fields and accompanying instructions (beyond project ID information):*

1. Detailed Schedule of Activities.—An updated master program schedule reflecting the current status of the program activities should be included in this section. A Gantt (bar) type chart is probably the most appropriate for annual reporting purposes.

2. Estimate of Specific Performance Objectives.—This section will discuss, what, if any performance objectives of the project will be achieved over the course of the upcoming Agreement Year and note any differences from the original project plan.

3. Forecasted Expenditures.—This section will discuss financial outlays that will occur in support of the project over the course of the upcoming Agreement Year and note any differences from the original project plan.

4. Schedule of Milestones for the Upcoming Agreement Year.—This section will discuss, what, if any project milestones will be achieved over the course of the upcoming Agreement Year and the obligations associated with each milestone, noting any differences from the original project plan. If there are no proposed deviations from the Approved Detailed Project Budget, the Annual Budget Review shall contain a statement stating such. The grantee will meet with the Government to discuss the Annual Budget Review and Program Plan. If there is an actual or projected project cost increase, the annual submittal should include a written plan for providing additional sources of funding to cover the project budget shortfall or supporting documentation of committed funds to cover the cost increase. To the extent the annual budget update deviates from the approved project budget by more than 10 percent, then work proposed under the Annual Budget Review and Program Plan shall not commence until written approval from the Government is received.

TIGER and TIGER II Discretionary Grant program grantees will submit Performance Measure Reports on the performance (or projected performance) of the project using the performance measures that the grantee and the Government selected through negations.

• *Performance Measurement Reports*

○ *Frequency:* Quarterly (on the 20th of the first month of the calendar quarter).

○ *Report covers:* Previous quarter.

○ *Start:* Once, upon award of grant; Quarterly, once construction complete.

○ *End:* At the end of agreed upon performance measurement period.

○ *Format/Fields and accompanying instructions (beyond project ID information):*

1. Performance Measures Narrative.—Including a detailed description of data sources, assumptions, variability, and the estimated level of precision for each measure.

2. Performance Measures Spreadsheet.—Government and grantee will agree on the format of the spreadsheet for each individual project. Measures (to be negotiated between grantees and the Government, individually) may include, but are not limited to: Average tons handled/day; average daily gross ton-miles (GTM); average container lifts per day (TEUs); containers transported on lines (TEUs); transit passenger miles and hours of travel; transit passenger & non-passenger counts; transit rider characteristics; average bike and or pedestrian users at key locations; average daily traffic (ADT) and average daily truck traffic (ADTT); average daily total train delay (minutes); average daily total (all vehicles) vehicle delay at crossings; transit service level; facility service level; average hourly (or peak & off-peak) vehicle travel time; average hourly (or peak & off-peak) buffer index; annual crash rates by type/severity; average slow order miles and average daily delay minutes due to slow orders; bridge condition (Sufficiency Rating); road closure/lost capacity time (lane-hours).

3. [For final Report] Project Outcomes.—Detailing Project successes and/or the influence of external factors on Project expectations. Including an *ex post* examination of project effectiveness in relation to the Pre-project Report baselines.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for the Office of the Secretary's (OST) performance; (b) the accuracy of the estimated burden; (c) ways for OST to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:48.

Issued in Washington, DC, on February 9, 2011.

Patricia Lawton,

DOT Paperwork Reduction Act Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2011–3353 Filed 2–14–11; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Supplemental Final Environmental Impact Statement: Clark County, Indiana, and Jefferson County, KY

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a supplemental environmental impact statement (SEIS) will be prepared for the Louisville-Southern Indiana Ohio River Bridges (Project) in Clark County, Indiana and Jefferson County, Kentucky.

FOR FURTHER INFORMATION CONTACT: Mr. Duane Thomas, Project Manager, Federal Highway Administration, John C. Watts Federal Building 330 West Broadway Frankfort, KY 40601, Telephone: (502) 223–6720, e-mail: *Duane.Thomas@dot.gov* or Mr. Gary Valentine, Project Manager, Kentucky Transportation Cabinet, 8310 Westport Road, Louisville, KY 40242, Telephone: (502) 210–5453, e-mail: *Gary.Valentine@ky.gov* or Mr. Paul Boone, Project Manager, Indiana Department of Transportation, 5701 Highway U.S. 31, Clarksville, IN 47129, Telephone: (812) 282–7493 ext.224, e-mail: *PBoone@indot.in.gov*.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA, in cooperation with the Project Sponsors, the Indiana Department of Transportation and the Kentucky Transportation Cabinet, will prepare an SEIS to examine the impacts of a proposal by the Project Sponsors to modify the Selected Alternative. The SEIS will be prepared in accordance with all applicable requirements of Section 6002 of SAFETEA–LU, codified at 23 U.S.C. 139. The proposed modification includes revising several design elements and using innovative financing sources, including collecting tolls.

A Final Environmental Impact Statement (FEIS) and Section 4(f) Evaluation was issued for the Project on April 8, 2003. The FEIS/Section 4(f) Evaluation examined four major project alternatives and a number of sub-alternatives in detail. On September 6, 2003, FHWA issued a Record of Decision (ROD) identifying the Selected Alternative and the reasons for its selection. The Selected Alternative consists of a new northbound I–65 bridge just east of the existing Kennedy Bridge (I–65); an East End bridge approximately eight miles from downtown Louisville connecting the Gene Snyder Freeway (KY 841) to the Lee Hamilton Highway (IN 265); and an adjacent rebuild of the Kennedy Interchange where I–64, I–65 and I–71 converge in downtown Louisville. The FEIS/Section 4(f) Evaluation and ROD are available for review by contacting the FHWA or any of the Project Sponsors at the addresses provided above. In addition, the ROD can be viewed electronically and/or downloaded from the Project Web site at *http://www.kyinbridges.com/project/history.aspx.*

Since the issuance of the ROD, the Project Sponsors have taken several major steps to advance the Project towards construction: a general engineering consultant was retained; a bridge type selection process was conducted; engineering design and right-of-way acquisition activities began; the Louisville and Southern Indiana Bridges Authority was created for the development, design, financing, construction, operation and oversight of the Project, and an update to the major project finance plan was completed. The Project Sponsors now propose to evaluate the environmental impacts of revising several elements of the Selected Alternative. Although the modifications are expected to reduce the environmental impacts of the Project, an SEIS is being prepared because the changes have the potential to result in significant environmental impacts that were not evaluated in the FEIS. In addition to updating the FEIS/Section 4(f) Evaluation, FHWA expects the SEIS to examine design changes and their potential impacts such as:

(1) Rebuilding the Kennedy Interchange within the existing location rather than reconstructing it adjacent to the existing location;

(2) Reducing the East End bridge, roadway and tunnel from six lanes to four lanes, with a possible option to add two lanes later if future traffic demand warrants;

(3) Removing the proposed pedestrian and bike path from the design for the new northbound I–65 bridge, as a result of a separate proposal to meet the same need by constructing a pedestrian walkway and bike path on the Big Four Bridge;

(4) Collecting tolls linked to the Project's improvements in cross-river mobility from the reconfigured Kennedy Bridge and the new northbound I–65 bridge in downtown and from the new East End bridge, pursuant to 23 U.S.C. 129 or other applicable law.

The SEIS will build upon and incorporate the work already completed as part of the project development process. Specifically, the SEIS will consider whether the Modified Selected Alternative would increase or decrease the expected direct, secondary, cumulative and temporary impacts to the environment within the Project Area, including social and economic concerns, agricultural impacts, historic and archaeological resource impacts, air quality impacts, noise impacts, vibration impacts, natural resources impacts, water resources impacts, floodplain impacts, wetland impacts, visual and aesthetic impacts, and hazardous substances concerns. The SEIS will address the requirements of all environmental laws, regulations and Executive Orders that would be applicable to the FHWA's approval of a Modified Selected Alternative.

The SEIS study process will include an invitation letter sent to potential Cooperating Agencies, Participating Agencies, and Section 106 Consulting Parties inviting the agencies to officially take part in the SEIS study, encouraging agency comments and suggestions concerning the SEIS, and further defining the roles of agencies in the study. One or more public workshops will be held to solicit public input into the development of the Modified Selected Alternative. In addition, a formal comment period for the public and agencies will be provided following the publication of the draft SEIS. The comments received will be responded to in the final SEIS. Notices of availability for the draft and final SEISs will be provided through direct mail, the **Federal Register** and other media. Notification also will be sent to Federal, State, local agencies, persons, and organizations that submit comments or questions. Precise schedules and locations for the public workshops will be announced in the local news media and on the Project Web site, *http://www.kyinbridges.com/.* Interested individuals and organizations may request to be included on the mailing list for the distribution of announcements and associated information.

Other Approvals for Federal Permits: The following approvals for Federal permits are anticipated to be required: The Navigational Permit Application from the U.S. Coast Guard and the Section 404 Permit from the Army Corps of Engineers. Additionally,

Section 401 Permits may be required from the Kentucky Energy and Environment Cabinet and the Indiana Department of Environmental Management. Other State and local permits may also be required.

Comments or questions concerning this Notice should be directed to the FHWA and to the Project Sponsors at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: February 9, 2011.

Jose Sepulveda,

Division Administrator, Federal Highway Administration, Frankfort, Kentucky.

[FR Doc. 2011–3404 Filed 2–14–11; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2000–7006; FMCSA–2001–10578; FMCSA–2002–12423; FMCSA–2002–12844; FMCSA–2004–17984; FMCSA–2004–19477; FMCSA–2006–26066; FMCSA–2008–0106; FMCSA–2008–0231; FMCSA–2008–0340; FMCSA–2008–0266]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 14 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective February 25, 2011. Comments must be received on or before March 17, 2011.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: FMCSA–2000–7006; FMCSA–2001–10578; FMCSA–2002–12423; FMCSA–2002–12844; FMCSA–2004–17984; FMCSA–2004–19477; FMCSA–2006–26066; FMCSA–2008–0106; FMCSA–2008–0231; FMCSA–2008–0340; FMCSA–2008–0266] using any of the following methods:

- *Federal eRulemaking Portal: Go to http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 14 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 14 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Jose S. Azuara
Benny J. Burke
Timothy A. DeFrange
Brian F. Denning
Wilfred J. Gagnon
Grady P. Gilliland
Lester G. Kelley, II.
Dennis R. O'Dell, Jr.
Jerry W. Parker
Robert L. Person
Virgil A. Potts
Henry A. Shelton
William R. Thomas
Stephen D. Vice

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The

person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 14 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (57 FR 57266; 65 FR 57230; 66 FR 58326; 66 FR 66966; 67 FR 68719; 68 FR 2629; 68 FR 8794; 69 FR 17267; 69 FR 33997; 69 FR 71100; 69 FR 61292; 69 FR 62741; 69 FR 64806; 70 FR 2705; 70 FR 8659; 71 FR 63379; 71 FR 62147, 71 FR 43556; 72 FR 5489; 72 FR 1050, 72 FR 184; 73 FR 35194; 73 FR 20245; 73 FR 46973; 73 FR 54888; 73 FR 75803; 73 FR 75806; 73 FR 51689; 73 FR 63047; 73 FR 48273; 74 FR 980; 74 FR 6207; 74 FR 6209). Each of these 14 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by March 17, 2011.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 14 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: February 7, 2011.

Larry W. Minor,

Associate Administrator, Office of Policy.

[FR Doc. 2011–3268 Filed 2–14–11; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

San Diego Trolley Incorporated

[Waiver Petition Docket Number FRA–2000–7137]

The San Diego Trolley Incorporated (SDTI) seeks a 5-year extension of its current waiver of compliance from certain provisions of 49 CFR for certain portions of its light-rail transit operations, employing temporal separation in order to safely share track with the general railroad system's San Diego and Imperial Valley Railroad (SDIV). SDTI seeks relief from certain requirements of 49 CFR part 217, Railroad Operating Rules (except for § 217.9(d)); Part 218, Railroad Operating Practices (§ 218.27(a)); Part 219, Control of Drug and Alcohol Abuse; Part 220, Railroad Communications; Part 221, Rear End Marking Device Passenger, Commuter and Freight Trains; Part 223, Safety Glazing Standards-Locomotives, Passenger Cars, and Cabooses (§§ 223.99(c), 223.17, 223.15(c)); Part 225, Accident Reporting and Investigation; Part 229, Railroad Locomotive Safety Standards (§§ 229.46–229.59, 229.61, 229.65, 229.71, 229.77, 229.125, 229.135); Part 231, Railroad Safety Appliance Standards (§ 231.14); Part 238, Passenger Equipment Safety Standards (§§ 238.1135, 238.114, 238.115, 238.203, 238.205, 238.207, 238.211, 238.213, 238.15, 238.17, 238.19, 238.231, 238.233, 238.235, 238.237, Subpart D (§§ 238.301–238.319)); Part 239, Passenger Train Emergency Preparedness; and Part 240, Locomotive Engineer Certification.

SDTI submits that this request is consistent with the waiver process for shared use. *See Statement of Agency Policy Concerning Jurisdiction Over the Safety of Railroad Passenger Operations and Waivers Related to Shared Use of the Tracks of the General Railroad System by Light Rail and Conventional Equipment, 65 FR 42529 (July 10, 2000); see also Joint Statement of Agency Policy Concerning Shared Use of the Tracks of the General Railroad System by Conventional Railroads and Light Rail Transit Systems, 65 FR 42626 (July 10, 2000).* SDTI received its initial waiver and permission from FRA in January 2001. In August 2004, SDTI received permission from FRA to modify the terms and conditions of the original 2001 waiver to include limited joint nighttime operations on the light-rail Blue Line with westbound SDIV freight trains. SDTI was granted a 5-year extension of the terms and conditions of the original waiver, with modifications approved in 2004 and 2006. SDTI states in this waiver renewal that nothing has changed since the 2006 decision letter was rendered by FRA.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they

should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket Number FRA–2000–7137) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or at *http://www.dot.gov/privacy.html.*

Issued in Washington, DC, on February 9, 2011.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2011–3292 Filed 2–14–11; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

FTA Fiscal Year 2011 Apportionments, Allocations and Program Information: Corrections

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice; corrections.

SUMMARY: This notice corrects Table 3 (FY 2011 Section 5307 and Section 5340 Urbanized Area Apportionments), Table 6 (FY 2011 Small Transit Intensive Cities Performance Data and Apportionments) and Table 10 (Prior Year Unobligated Section 5309 Bus and Bus Related Equipment and Facilities) that were published in the February 8, 2011, (76 FR 6958) Federal Transit Administration (FTA) notice titled "FTA Fiscal Year 2011 Apportionments, Allocations and Program Information."

FOR FURTHER INFORMATION CONTACT: For general information about this notice contact Kimberly Sledge, Team Leader, Transit Program Management Team, at (202) 366–2053.

Issued in Washington, DC, February 9, 2011.

Peter Rogoff,

Administrator.

BILLING CODE P

FEDERAL TRANSIT ADMINISTRATION
TABLE 3

FY 2011 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

(Apportionment amount is based on funding made available under Public Law - 111-322)

(Note: In accordance with language in the SAFETEA-LU conference report, an urbanized area apportionments for Section 5307 and Section 5340 were combined to show a single amount. An area's apportionment amount includes regular Section 5307 funds, Small Transit Intensive Cities funds, and Growing States and High Density States formula funds, as appropriate.)

URBANIZED AREA/STATE	APPORTIONMENT
1,000,000 or more in Population	$1,361,033,282
200,000 - 999,999 in Population	355,614,976
50,000 - 199,999 in Population	199,359,994
National Total	$1,916,008,252
Amounts Apportioned to Urbanized Areas 1,000,000 or more in Population:	
Atlanta, GA	$30,118,194
Baltimore, MD	24,606,802
Boston, MA--NH--RI	62,271,616
Chicago, IL--IN	102,408,379
Cincinnati, OH--KY--IN	7,626,885
Cleveland, OH	11,655,262
Columbus, OH	5,444,494
Dallas--Fort Worth--Arlington, TX	28,587,728
Denver--Aurora, CO	19,962,248
Detroit, MI	18,492,690
Houston, TX	29,353,328
Indianapolis, IN	5,003,350
Kansas City, MO--KS	6,518,124
Las Vegas, NV	10,298,030
Los Angeles--Long Beach--Santa Ana, CA	126,333,849
Miami, FL	41,983,591
Milwaukee, WI	8,841,993
Minneapolis--St. Paul, MN	21,162,525
New Orleans, LA	7,588,050
New York--Newark, NY--NJ--CT	371,833,802
Orlando, FL	7,563,294
Philadelphia, PA--NJ--DE--MD	60,007,440
Phoenix--Mesa, AZ	22,281,569
Pittsburgh, PA	14,083,690
Portland, OR--WA	16,479,847
Providence, RI--MA	14,438,999
Riverside--San Bernardino, CA	12,203,765
Sacramento, CA	9,508,821
San Antonio, TX	10,295,696
San Diego, CA	25,219,699
San Francisco--Oakland, CA	54,672,964
San Jose, CA	17,777,929
San Juan, PR	13,260,973
Seattle, WA	40,708,624
St. Louis, MO--IL	14,419,543
Tampa--St. Petersburg, FL	10,275,994
Virginia Beach, VA	8,511,288
Washington, DC--VA--MD	69,232,207
Total	**$1,361,033,282**

FEDERAL TRANSIT ADMINISTRATION
TABLE 3

FY 2011 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

(Apportionment amount is based on funding made available under Public Law - 111-322)

(Note: In accordance with language in the SAFETEA-LU conference report, an urbanized area apportionments for Section 5307 and Section 5340 were combined to show a single amount. An area's apportionment amount includes regular Section 5307 funds, Small Transit Intensive Cities funds, and Growing States and High Density States formula funds, as appropriate.)

URBANIZED AREA/STATE	APPORTIONMENT
Amounts Apportioned to Urbanized Areas 200,000 to 999,999 in Population	
Aguadilla--Isabela--San Sebastian, PR	$1,594,150
Akron, OH	2,860,811
Albany, NY	4,644,579
Albuquerque, NM	5,707,413
Allentown--Bethlehem, PA--NJ	3,280,566
Anchorage, AK	9,691,539
Ann Arbor, MI	2,142,020
Antioch, CA	2,691,544
Asheville, NC	829,004
Atlantic City, NJ	4,600,273
Augusta-Richmond County, GA--SC	1,043,027
Austin, TX	8,516,386
Bakersfield, CA	2,562,599
Barnstable Town, MA	2,355,076
Baton Rouge, LA	1,997,925
Birmingham, AL	2,865,887
Boise City, ID	1,134,886
Bonita Springs--Naples, FL	1,204,595
Bridgeport--Stamford, CT--NY	11,071,942
Buffalo, NY	8,049,263
Canton, OH	1,537,269
Cape Coral, FL	1,763,250
Charleston--North Charleston, SC	2,091,509
Charlotte, NC--SC	7,260,467
Chattanooga, TN--GA	1,451,872
Colorado Springs, CO	2,671,215
Columbia, SC	1,640,005
Columbus, GA--AL	942,510
Concord, CA	8,932,128
Corpus Christi, TX	2,019,469
Davenport, IA--IL	1,645,438
Dayton, OH	6,116,345
Daytona Beach--Port Orange, FL	1,748,890
Denton--Lewisville, TX	1,352,237
Des Moines, IA	2,695,141
Durham, NC	2,832,690
El Paso, TX--NM	4,741,278
Eugene, OR	2,165,600
Evansville, IN--KY	916,822
Fayetteville, NC	999,925
Flint, MI	2,864,840
Fort Collins, CO	1,078,798
Fort Wayne, IN	1,233,183
Fresno, CA	3,694,425
Grand Rapids, MI	3,420,578
Greensboro, NC	2,241,360
Greenville, SC	898,907
Gulfport--Biloxi, MS	885,761

FEDERAL TRANSIT ADMINISTRATION
TABLE 3

FY 2011 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

(Apportionment amount is based on funding made available under Public Law - 111-322)

(Note: In accordance with language in the SAFETEA-LU conference report, an urbanized area apportionments for Section 5307 and Section 5340 were combined to show a single amount. An area's apportionment amount includes regular Section 5307 funds, Small Transit Intensive Cities funds, and Growing States and High Density States formula funds, as appropriate.)

URBANIZED AREA/STATE	APPORTIONMENT
Harrisburg, PA	2,205,159
Hartford, CT	8,732,778
Honolulu, HI	13,824,389
Huntsville, AL	775,283
Indio--Cathedral City--Palm Springs, CA	1,582,228
Jackson, MS	1,069,278
Jacksonville, FL	5,684,548
Knoxville, TN	2,040,628
Lancaster, PA	3,209,415
Lancaster--Palmdale, CA	3,811,638
Lansing, MI	2,310,571
Lexington-Fayette, KY	1,793,965
Lincoln, NE	1,187,974
Little Rock, AR	1,752,281
Louisville, KY--IN	5,493,405
Lubbock, TX	1,203,893
Madison, WI	2,972,971
McAllen, TX	1,523,300
Memphis, TN--MS--AR	5,406,370
Mission Viejo, CA	4,291,785
Mobile, AL	1,332,858
Modesto, CA	1,770,960
Nashville-Davidson, TN	5,011,990
New Haven, CT	8,181,120
Ogden--Layton, UT	4,266,878
Oklahoma City, OK	3,075,045
Omaha, NE--IA	3,164,653
Oxnard, CA	3,185,535
Palm Bay--Melbourne, FL	1,839,803
Pensacola, FL--AL	1,233,006
Peoria, IL	1,302,372
Port St. Lucie, FL	955,162
Poughkeepsie--Newburgh, NY	7,321,812
Provo--Orem, UT	2,063,310
Raleigh, NC	3,470,491
Reading, PA	1,333,946
Reno, NV	2,152,088
Richmond, VA	4,632,593
Rochester, NY	4,948,496
Rockford, IL	1,188,521
Round Lake Beach--McHenry--Grayslake, IL--WI	1,705,543
Salem, OR	2,117,996
Salt Lake City, UT	11,128,819
Santa Rosa, CA	1,956,457
Sarasota--Bradenton, FL	3,076,129
Savannah, GA	1,382,573
Scranton, PA	1,778,428
Shreveport, LA	1,428,694
South Bend, IN--MI	1,686,686
Spokane, WA--ID	3,360,926

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

FY 2011 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

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URBANIZED AREA/STATE	APPORTIONMENT
Springfield, MA--CT	5,293,141
Springfield, MO	892,481
Stockton, CA	3,225,155
Syracuse, NY	3,148,507
Tallahassee, FL	1,173,396
Temecula--Murrieta, CA	1,348,306
Thousand Oaks, CA	1,300,298
Toledo, OH--MI	2,796,919
Trenton, NJ	4,716,719
Tucson, AZ	5,305,557
Tulsa, OK	2,788,679
Victorville--Hesperia--Apple Valley, CA	1,086,305
Wichita, KS	2,171,528
Winston-Salem, NC	1,287,588
Worcester, MA--CT	3,800,650
Youngstown, OH--PA	1,669,601
Total	**$355,614,976**

Amounts Apportioned to State Governors for Urbanized Areas 50,000 to 199,999 in Population

ALABAMA	$3,600,162
Anniston, AL	329,072
Auburn, AL	304,262
Decatur, AL	289,368
Dothan, AL	333,481
Florence, AL	348,756
Gadsden, AL	273,065
Montgomery, AL	1,125,582
Tuscaloosa, AL	596,576
ALASKA	$243,238
Fairbanks, AK	243,238
ARIZONA	$1,907,536
Avondale, AZ	424,303
Flagstaff, AZ	482,538
Prescott, AZ	327,843
Yuma, AZ--CA	672,852
ARKANSAS	$2,395,234
Fayetteville--Springdale, AR	893,906
Fort Smith, AR--OK	588,945
Hot Springs, AR	237,216
Jonesboro, AR	248,266
Pine Bluff, AR	308,555
Texarkana, TX--Texarkana, AR	118,346
CALIFORNIA	$27,450,622
Atascadero--El Paso de Robles (Paso Robles), CA	410,087
Camarillo, CA	440,306
Chico, CA	690,630
Davis, CA	967,373
El Centro, CA	613,977
Fairfield, CA	1,057,647
Gilroy--Morgan Hill, CA	509,711

FEDERAL TRANSIT ADMINISTRATION
TABLE 3

FY 2011 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

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URBANIZED AREA/STATE	APPORTIONMENT
Hanford, CA	748,399
Hemet, CA	799,374
Livermore, CA	593,787
Lodi, CA	656,097
Lompoc, CA	351,189
Madera, CA	377,294
Manteca, CA	414,880
Merced, CA	793,507
Napa, CA	608,292
Petaluma, CA	444,651
Porterville, CA	415,390
Redding, CA	532,205
Salinas, CA	1,620,124
San Luis Obispo, CA	590,629
Santa Barbara, CA	1,801,108
Santa Clarita, CA	1,575,400
Santa Cruz, CA	1,422,384
Santa Maria, CA	1,082,369
Seaside--Monterey--Marina, CA	1,127,985
Simi Valley, CA	969,513
Tracy, CA	546,853
Turlock, CA	728,145
Vacaville, CA	819,934
Vallejo, CA	1,485,738
Visalia, CA	963,800
Watsonville, CA	625,945
Yuba City, CA	660,484
Yuma, AZ--CA	5,415
COLORADO	$4,425,020
Boulder, CO	1,198,717
Grand Junction, CO	490,185
Greeley, CO	641,456
Lafayette--Louisville, CO	455,408
Longmont, CO	876,999
Pueblo, CO	762,255
CONNECTICUT	$8,764,853
Danbury, CT--NY	3,388,392
Norwich--New London, CT	1,488,622
Waterbury, CT	3,887,839
DELAWARE	$695,914
Dover, DE	679,276
Salisbury, MD--DE	16,638
FLORIDA	$10,364,632
Brooksville, FL	483,277
Deltona, FL	783,719
Fort Walton Beach, FL	796,436
Gainesville, FL	1,213,867
Kissimmee, FL	1,135,467
Lady Lake, FL	225,819

FEDERAL TRANSIT ADMINISTRATION
TABLE 3

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URBANIZED AREA/STATE	APPORTIONMENT
Lakeland, FL	1,059,489
Leesburg--Eustis, FL	536,965
North Port--Punta Gorda, FL	603,455
Ocala, FL	500,550
Panama City, FL	640,634
St. Augustine, FL	276,474
Titusville, FL	450,777
Vero Beach--Sebastian, FL	614,960
Winter Haven, FL	781,088
Zephyrhills, FL	261,655
GEORGIA	$4,423,622
Albany, GA	594,567
Athens-Clarke County, GA	802,388
Brunswick, GA	243,951
Dalton, GA	261,420
Gainesville, GA	392,602
Hinesville, GA	282,046
Macon, GA	725,237
Rome, GA	404,940
Valdosta, GA	296,978
Warner Robins, GA	419,493
HAWAII	$1,041,316
Kailua (Honolulu County)--Kaneohe, HI	1,041,316
IDAHO	$1,923,520
Coeur d'Alene, ID	410,753
Idaho Falls, ID	402,609
Lewiston, ID--WA	174,163
Nampa, ID	566,504
Pocatello, ID	369,491
ILLINOIS	$5,278,835
Alton, IL	444,435
Beloit, WI--IL	69,278
Bloomington--Normal, IL	909,131
Champaign, IL	1,214,081
Danville, IL	284,212
Decatur, IL	597,230
DeKalb, IL	403,011
Dubuque, IA--IL	14,061
Kankakee, IL	515,158
Springfield, IL	828,238
INDIANA	$4,924,327
Anderson, IN	494,361
Bloomington, IN	659,769
Columbus, IN	283,562
Elkhart, IN--MI	688,365
Kokomo, IN	403,398
Lafayette, IN	938,129
Michigan City, IN--MI	375,719
Muncie, IN	644,208
Terre Haute, IN	436,816

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

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URBANIZED AREA/STATE	APPORTIONMENT
IOWA	$3,961,564
Ames, IA	652,114
Cedar Rapids, IA	1,015,847
Dubuque, IA--IL	372,426
Iowa City, IA	754,584
Sioux City, IA--NE--SD	540,595
Waterloo, IA	625,998
KANSAS	$1,498,927
Lawrence, KS	672,961
St. Joseph, MO--KS	5,887
Topeka, KS	820,079
KENTUCKY	$1,396,440
Bowling Green, KY	302,737
Clarksville, TN--KY	130,882
Huntington, WV--KY--OH	272,620
Owensboro, KY	365,472
Radcliff--Elizabethtown, KY	324,729
LOUISIANA	$3,945,305
Alexandria, LA	378,272
Houma, LA	656,047
Lafayette, LA	989,894
Lake Charles, LA	659,518
Mandeville--Covington, LA	303,681
Monroe, LA	564,497
Slidell, LA	393,396
MAINE	$1,673,965
Bangor, ME	299,107
Dover--Rochester, NH--ME	42,050
Lewiston, ME	319,436
Portland, ME	952,757
Portsmouth, NH--ME	60,615
MARYLAND	$5,134,946
Aberdeen--Havre de Grace--Bel Air, MD	1,414,973
Cumberland, MD--WV--PA	395,541
Frederick, MD	934,176
Hagerstown, MD--WV--PA	702,995
Salisbury, MD--DE	550,856
St. Charles, MD	596,564
Westminster, MD	539,841
MASSACHUSETTS	$3,067,394
Leominster--Fitchburg, MA	1,107,178
Nashua, NH--MA	247
New Bedford, MA	1,400,239
Pittsfield, MA	559,730
MICHIGAN	$6,169,504
Battle Creek, MI	402,612
Bay City, MI	519,934
Benton Harbor--St. Joseph, MI	298,617
Elkhart, IN--MI	8,554
Holland, MI	513,377
Jackson, MI	466,786
Kalamazoo, MI	1,062,280
Michigan City, IN--MI	2,447

FEDERAL TRANSIT ADMINISTRATION
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URBANIZED AREA/STATE	APPORTIONMENT
Monroe, MI	288,214
Muskegon, MI	788,455
Port Huron, MI	553,124
Saginaw, MI	786,451
South Lyon--Howell--Brighton, MI	478,653
MINNESOTA	$2,434,488
Duluth, MN--WI	703,070
Fargo, ND--MN	239,090
Grand Forks, ND--MN	58,288
La Crosse, WI--MN	36,699
Rochester, MN	667,756
St. Cloud, MN	729,585
MISSISSIPPI	$708,078
Hattiesburg, MS	316,271
Pascagoula, MS	391,807
MISSOURI	$2,058,630
Columbia, MO	611,014
Jefferson City, MO	265,070
Joplin, MO	341,213
Lee's Summit, MO	348,990
St. Joseph, MO--KS	492,343
MONTANA	$1,493,873
Billings, MT	601,299
Great Falls, MT	390,435
Missoula, MT	502,139
N. MARIANA ISLANDS	$340,681
Saipan, MP	340,681
NEBRASKA	$104,756
Sioux City, IA--NE--SD	104,756
NEVADA	$347,224
Carson City, NV	347,224
NEW HAMPSHIRE	$2,544,808
Dover--Rochester, NH--ME	451,618
Manchester, NH	826,599
Nashua, NH--MA	979,332
Portsmouth, NH--ME	287,259
NEW JERSEY	$2,043,272
Hightstown, NJ	698,248
Vineland, NJ	778,219
Wildwood--North Wildwood--Cape May, NJ	566,805
NEW MEXICO	$1,347,025
Farmington, NM	251,758
Las Cruces, NM	546,363
Santa Fe, NM	548,904
NEW YORK	$4,730,173
Binghamton, NY--PA	1,307,699
Danbury, CT--NY	38,997
Elmira, NY	536,391
Glens Falls, NY	388,139

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

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URBANIZED AREA/STATE	APPORTIONMENT
Ithaca, NY	596,808
Kingston, NY	357,042
Middletown, NY	347,140
Saratoga Springs, NY	327,948
Utica, NY	830,009
NORTH CAROLINA	$5,505,012
Burlington, NC	475,739
Concord, NC	550,775
Gastonia, NC	663,227
Goldsboro, NC	282,064
Greenville, NC	471,197
Hickory, NC	805,379
High Point, NC	662,705
Jacksonville, NC	486,495
Rocky Mount, NC	315,870
Wilmington, NC	791,561
NORTH DAKOTA	$1,772,066
Bismarck, ND	560,564
Fargo, ND--MN	786,559
Grand Forks, ND--MN	424,943
OHIO	$4,456,258
Huntington, WV--KY--OH	178,425
Lima, OH	382,534
Lorain--Elyria, OH	1,158,745
Mansfield, OH	408,702
Middletown, OH	533,581
Newark, OH	509,032
Parkersburg, WV--OH	125,549
Sandusky, OH	270,794
Springfield, OH	516,930
Weirton, WV--Steubenville, OH--PA	215,590
Wheeling, WV--OH	156,376
OKLAHOMA	$1,074,371
Fort Smith, AR--OK	11,161
Lawton, OK	467,750
Norman, OK	595,460
OREGON	$1,529,119
Bend, OR	298,655
Corvallis, OR	447,760
Longview, WA--OR	8,002
Medford, OR	774,702
PENNSYLVANIA	$8,978,890
Altoona, PA	492,791
Binghamton, NY--PA	21,270
Cumberland, MD--WV--PA	67
Erie, PA	1,403,521
Hagerstown, MD--WV--PA	6,163
Hazleton, PA	280,916
Johnstown, PA	523,819
Lebanon, PA	431,129
Monessen, PA	400,110
Pottstown, PA	354,727
State College, PA	870,518
Uniontown--Connellsville, PA	391,355

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

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URBANIZED AREA/STATE	APPORTIONMENT
Weirton, WV--Steubenville, OH--PA	1,336
Williamsport, PA	684,776
York, PA	1,116,392
PUERTO RICO	$6,090,679
Arecibo, PR	819,488
Fajardo, PR	572,245
Florida--Barceloneta--Bajadero, PR	314,770
Guayama, PR	523,130
Juana Diaz, PR	388,143
Mayaguez, PR	807,890
Ponce, PR	1,464,598
San German--Cabo Rojo--Sabana Grande, PR	551,049
Yauco, PR	649,366
RHODE ISLAND	0
SOUTH CAROLINA	$3,160,018
Anderson, SC	313,528
Florence, SC	472,353
Mauldin--Simpsonville, SC	385,152
Myrtle Beach, SC	579,832
Rock Hill, SC	323,005
Spartanburg, SC	651,928
Sumter, SC	434,220
SOUTH DAKOTA	$1,308,055
Rapid City, SD	400,666
Sioux City, IA--NE--SD	18,301
Sioux Falls, SD	889,088
TENNESSEE	$3,169,197
Bristol, TN--Bristol, VA	169,937
Clarksville, TN--KY	494,153
Cleveland, TN	272,448
Jackson, TN	402,081
Johnson City, TN	468,807
Kingsport, TN--VA	411,129
Morristown, TN	253,960
Murfreesboro, TN	696,682
TEXAS	$16,890,453
Abilene, TX	655,951
Amarillo, TX	1,139,802
Beaumont, TX	752,548
Brownsville, TX	1,270,661
College Station--Bryan, TX	891,216
Galveston, TX	503,260
Harlingen, TX	622,522
Killeen, TX	1,113,127
Lake Jackson--Angleton, TX	442,001
Laredo, TX	1,687,384
Longview, TX	404,121
McKinney, TX	316,469
Midland, TX	600,161
Odessa, TX	658,825
Port Arthur, TX	740,989
San Angelo, TX	612,954
Sherman, TX	307,281
Temple, TX	391,423

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

FY 2011 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

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URBANIZED AREA/STATE	APPORTIONMENT
Texarkana, TX--Texarkana, AR	225,701
Texas City, TX	512,570
The Woodlands, TX	703,305
Tyler, TX	555,794
Victoria, TX	290,628
Waco, TX	927,682
Wichita Falls, TX	564,078
UTAH	$850,968
Logan, UT	497,975
St. George, UT	352,993
VERMONT	$727,191
Burlington, VT	727,191
VIRGIN ISLANDS	412,017 1/
VIRGINIA	$4,607,679
Blacksburg, VA	622,598
Bristol, TN--Bristol, VA	99,098
Charlottesville, VA	655,521
Danville, VA	262,784
Fredericksburg, VA	491,506
Harrisonburg, VA	468,803
Kingsport, TN--VA	7,765
Lynchburg, VA	646,230
Roanoke, VA	1,072,913
Winchester, VA	280,461
WASHINGTON	$6,932,896
Bellingham, WA	752,333
Bremerton, WA	1,135,977
Kennewick--Richland, WA	1,183,975
Lewiston, ID--WA	101,650
Longview, WA--OR	360,527
Marysville, WA	590,520
Mount Vernon, WA	436,136
Olympia--Lacey, WA	1,080,189
Wenatchee, WA	493,280
Yakima, WA	798,309
WEST VIRGINIA	$2,932,731
Charleston, WV	1,059,721
Cumberland, MD--WV--PA	11,087
Hagerstown, MD--WV--PA	145,111
Huntington, WV--KY--OH	482,159
Morgantown, WV	459,986
Parkersburg, WV--OH	327,489
Weirton, WV--Steubenville, OH--PA	149,610
Wheeling, WV--OH	297,568
WISCONSIN	$7,781,284
Appleton, WI	1,217,557
Beloit, WI--IL	255,771
Duluth, MN--WI	220,156
Eau Claire, WI	528,606
Fond du Lac, WI	317,341
Green Bay, WI	1,142,666
Janesville, WI	400,069
Kenosha, WI	729,110

FEDERAL TRANSIT ADMINISTRATION
TABLE 3

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URBANIZED AREA/STATE	APPORTIONMENT
La Crosse, WI--MN	617,701
Oshkosh, WI	583,130
Racine, WI	884,974
Sheboygan, WI	509,672
Wausau, WI	374,531
WYOMING	$741,226
Casper, WY	347,996
Cheyenne, WY	393,230
Total	**$199,359,994**

1/ Language in section 5307(l) of SAFETEA-LU directs that the Virgin Islands be treated as an urbanized area.

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Alabama	Anniston, AL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Alabama	Auburn, AL	1.000	14.286	4.836	0.339	4.836	0.916	0	0
Alabama	Decatur, AL	0.954	11.935	9.117	0.729	8.699	2.973	0	0
Alabama	Dothan, AL	0.996	18.712	14.461	0.770	14.407	1.090	1	55,976
Alabama	Florence, AL	2.035	23.636	7.524	0.648	15.312	4.989	0	0
Alabama	Gadsden, AL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Alabama	Montgomery, AL	4.334	68.246	8.318	0.528	36.046	6.790	0	0
Alabama	Tuscaloosa, AL	3.352	39.894	2.786	0.234	9.338	1.784	0	0
Alaska	Fairbanks, AK	4.947	81.729	11.405	0.690	56.423	7.652	0	0
Arizona	Avondale, AZ	1.102	18.422	6.923	0.414	7.631	1.728	0	0
Arizona	Flagstaff, AZ	3.669	49.560	12.762	0.945	46.821	16.444	3	167,927
Arizona	Prescott, AZ	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arizona	Yuma, AZ--CA	1.276	28.071	12.824	0.583	16.364	3.604	1	55,976
Arkansas	Fayetteville--Springdale, AR	3.726	43.906	4.562	0.387	16.999	8.637	0	0
Arkansas	Fort Smith, AR--OK	2.274	30.356	4.264	0.319	9.698	2.110	0	0
Arkansas	Hot Springs, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arkansas	Jonesboro, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arkansas	Pine Bluff, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Atascadero--El Paso de Robles (Paso Robles), CA	10.429	280.642	5.000	0.186	52.144	1.805	2	111,951
California	Camarillo, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Chico, CA	5.696	83.982	14.213	0.964	80.956	14.933	2	111,951
California	Davis, CA	9.358	117.848	17.361	1.379	162.465	56.523	6	335,853
California	El Centro, CA	12.772	245.026	13.554	0.707	173.111	9.520	4	223,902
California	Fairfield, CA	4.613	92.027	13.016	0.653	60.048	6.792	1	55,976
California	Gilroy--Morgan Hill, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Hanford, CA	5.232	177.199	76.899	2.271	402.363	21.878	5	279,878
California	Hemet, CA	2.147	41.743	6.344	0.326	13.622	1.500	0	0
California	Livermore, CA	3.914	54.524	5.225	0.375	20.454	4.175	0	0
California	Lodi, CA	1.656	17.602	6.077	0.572	10.075	3.523	0	0
California	Lompoc, CA	10.073	139.170	8.540	0.618	86.029	5.304	2	111,951
California	Madera, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Manteca, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
California	Merced, CA	1.856	36.763	7.263	0.367	13.484	2.240	0	0
California	Napa, CA	2.370	29.145	8.217	0.668	19.471	5.157	0	0
California	Petaluma, CA	3.875	50.613	7.433	0.569	28.802	4.964	0	0
California	Porterville, CA	5.513	84.564	7.586	0.495	41.822	9.557	0	0
California	Redding, CA	4.502	72.411	10.435	0.649	46.978	8.557	0	0
California	Salinas, CA	6.949	114.338	8.887	0.540	61.761	9.252	2	111,951
California	San Luis Obispo, CA	6.032	91.945	13.215	0.867	79.710	22.014	3	167,927
California	Santa Barbara, CA	12.700	175.191	16.670	1.208	211.717	43.047	6	335,853
California	Santa Clarita, CA	11.642	202.302	16.000	0.921	186.278	17.929	6	335,853
California	Santa Cruz, CA	9.850	139.422	22.336	1.578	220.017	36.161	6	335,853
California	Santa Maria, CA	9.861	168.151	10.193	0.598	100.512	11.087	3	167,927
California	Seaside--Monterey--Marina, CA	6.003	97.695	19.123	1.175	114.795	17.310	4	223,902
California	Simi Valley, CA	3.678	51.714	5.757	0.409	21.176	4.250	0	0
California	Tracy, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Turlock, CA	1.837	29.548	20.053	1.247	36.843	17.070	3	167,927
California	Vacaville, CA	8.383	157.729	0.641	0.034	5.372	0.551	2	111,951
California	Vallejo, CA	5.482	81.997	7.839	0.524	42.975	5.727	0	0
California	Visalia, CA	4.298	59.795	12.710	0.914	54.627	13.199	2	111,951
California	Watsonville, CA	8.530	127.490	9.482	0.634	80.880	12.782	2	111,951
California	Yuba City, CA	6.213	94.617	11.696	0.768	72.673	10.740	0	0
Colorado	Boulder, CO	9.035	124.344	25.814	1.876	233.237	45.979	6	335,853
Colorado	Grand Junction, CO	4.696	74.522	8.884	0.560	41.720	9.405	0	0
Colorado	Greeley, CO	3.874	46.962	5.663	0.467	21.938	5.922	0	0
Colorado	Lafayette--Louisville, CO	8.788	122.484	6.783	0.487	59.608	11.883	2	111,951
Colorado	Longmont, CO	8.546	116.284	15.124	1.111	129.244	25.071	6	335,853
Colorado	Pueblo, CO	3.638	56.583	6.671	0.429	24.273	7.735	0	0
Connecticut	Danbury, CT--NY	29.205	791.504	35.247	1.301	1029.388	42.032	6	335,853
Connecticut	Norwich--New London, CT	6.150	115.480	9.421	0.502	57.944	7.170	1	55,976
Connecticut	Waterbury, CT	28.325	672.900	29.844	1.256	845.338	42.940	6	335,853
Delaware	Dover, DE	3.151	54.532	31.655	1.829	99.758	13.450	3	167,927
Florida	Brooksville, FL	1.904	36.391	5.392	0.282	10.269	1.603	0	0
Florida	Deltona, FL	3.262	49.465	7.476	0.493	24.366	4.703	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Florida	Fort Walton Beach, FL	1.353	18.763	6.857	0.495	9.279	1.645	0	0
Florida	Gainesville, FL	8.042	92.668	19.772	1.716	159.007	56.299	5	279,878
Florida	Kissimmee, FL	5.035	75.806	13.767	0.914	69.321	11.220	2	111,951
Florida	Lady Lake, FL	2.583	45.575	11.361	0.644	29.342	2.013	0	0
Florida	Lakeland, FL	4.548	68.513	9.097	0.604	41.371	7.866	0	0
Florida	Leesburg--Eustis, FL	2.720	49.263	12.612	0.696	34.307	2.288	1	55,976
Florida	North Port--Punta Gorda, FL	1.091	18.606	4.016	0.236	4.382	0.566	0	0
Florida	Ocala, FL	1.160	18.800	0.001	0.000	0.001	0.000	0	0
Florida	Panama City, FL	3.146	56.846	9.483	0.525	29.832	6.458	0	0
Florida	St. Augustine, FL	2.668	48.517	7.515	0.416	20.199	2.764	0	0
Florida	Titusville, FL	6.194	197.307	21.148	0.664	131.000	5.403	3	167,927
Florida	Vero Beach--Sebastian, FL	3.771	45.816	6.853	0.564	25.845	5.331	0	0
Florida	Winter Haven, FL	2.163	35.644	11.105	0.674	24.024	3.512	0	0
Florida	Zephyrhills, FL	4.069	70.135	6.737	0.391	27.414	4.222	0	0
Georgia	Albany, GA	7.184	116.990	6.735	0.414	46.381	10.083	2	111,951
Georgia	Athens-Clarke County, GA	6.769	56.893	14.648	1.743	99.148	105.901	5	279,878
Georgia	Brunswick, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Dalton, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Gainesville, GA	0.752	10.176	3.181	0.235	2.390	1.628	0	0
Georgia	Hinesville, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Macon, GA	3.459	47.963	8.334	0.601	28.828	6.732	0	0
Georgia	Rome, GA	8.156	93.311	9.694	0.847	79.071	12.322	2	111,951
Georgia	Valdosta, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Warner Robins, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Hawaii	Kailua (Honolulu County)--Kaneohe, HI	12.124	167.053	2.157	0.157	26.146	4.781	2	111,951
Idaho	Coeur d'Alene, ID	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Idaho	Idaho Falls, ID	1.715	22.424	8.142	0.623	13.961	1.940	0	0
Idaho	Lewiston, ID--WA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Idaho	Nampa, ID	4.797	106.453	5.939	0.268	28.491	2.154	0	0
Idaho	Pocatello, ID	4.679	65.095	7.830	0.563	36.638	7.486	0	0
Illinois	Alton, IL	5.329	94.453	4.037	0.228	21.517	2.813	0	0
Illinois	Bloomington--Normal, IL	3.124	45.130	13.151	0.910	41.076	14.617	2	111,951

FEDERAL TRANSIT ADMINISTRATION

Table 6

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State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Illinois	Champaign, IL	10.106	114.839	24.952	2.196	252.170	81.691	6	335,853
Illinois	Danville, IL	4.987	93.323	9.684	0.518	48.297	9.736	0	0
Illinois	Decatur, IL	3.437	47.572	11.611	0.839	39.906	13.386	1	55,976
Illinois	DeKalb, IL	1.574	23.465	11.215	0.752	17.650	2.147	0	0
Illinois	Kankakee, IL	5.110	74.425	13.897	0.954	71.014	9.738	2	111,951
Illinois	Springfield, IL	3.004	37.531	10.211	0.817	30.676	11.046	0	0
Indiana	Anderson, IN	2.032	26.911	4.203	0.317	8.540	1.846	0	0
Indiana	Bloomington, IN	6.058	64.657	12.244	1.147	74.179	33.062	2	111,951
Indiana	Columbus, IN	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Indiana	Elkhart, IN--MI	2.596	39.952	5.563	0.361	14.438	2.416	0	0
Indiana	Kokomo, IN	1.235	11.876	9.430	0.981	11.650	2.524	1	55,976
Indiana	Lafayette, IN	6.032	68.558	12.668	1.114	76.359	37.711	3	167,927
Indiana	Michigan City, IN--MI	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Indiana	Muncie, IN	5.543	72.347	11.685	0.895	64.771	21.323	2	111,951
Indiana	Terre Haute, IN	1.451	12.385	4.883	0.572	7.084	3.983	0	0
Iowa	Ames, IA	6.857	72.329	22.166	2.101	151.992	98.611	5	279,878
Iowa	Cedar Rapids, IA	4.779	60.927	8.453	0.663	40.401	8.064	0	0
Iowa	Dubuque, IA--IL	2.059	24.198	8.284	0.705	17.057	5.423	0	0
Iowa	Iowa City, IA	5.539	62.398	23.821	2.115	131.958	77.497	4	223,902
Iowa	Sioux City, IA--NE--SD	8.385	106.001	6.905	0.546	57.898	11.246	1	55,976
Iowa	Waterloo, IA	1.062	16.734	9.514	0.604	10.108	5.063	0	0
Kansas	Lawrence, KS	2.892	34.153	11.608	0.963	33.572	12.316	1	55,976
Kansas	Topeka, KS	4.175	65.029	10.832	0.695	45.222	11.648	0	0
Kentucky	Bowling Green, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Kentucky	Owensboro, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Kentucky	Radcliff--Elizabethtown, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Alexandria, LA	5.018	60.419	8.270	0.516	41.499	10.646	0	0
Louisiana	Houma, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Lafayette, LA	9.119	121.277	4.789	0.360	43.674	8.358	2	111,951
Louisiana	Lake Charles, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Mandeville--Covington, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Monroe, LA	4.585	69.822	7.382	0.485	33.848	10.575	0	0

FEDERAL TRANSIT ADMINISTRATION

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	Average for UZAs with populations 200,000 - 999,999	**6.529**	**106.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Louisiana	Slidell, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Maine	Bangor, ME	6.049	80.878	10.327	0.772	62.464	14.958	0	0
Maine	Lewiston, ME	3.043	39.016	4.747	0.370	14.445	4.645	0	0
Maine	Portland, ME	6.137	69.703	8.400	0.740	51.550	12.854	0	0
Maryland	Aberdeen--Havre de Grace--Bel Air, MD	3.344	60.890	4.305	0.236	14.397	1.737	0	0
Maryland	Cumberland, MD--WV--PA	3.495	53.302	8.883	0.582	31.043	3.398	0	0
Maryland	Frederick, MD	3.241	45.419	9.771	0.697	31.665	6.647	0	0
Maryland	Hagerstown, MD--WV--PA	3.017	45.423	4.000	0.266	12.068	3.204	0	0
Maryland	Salisbury, MD--DE	0.000	0.000	32.947	1.582	0.000	8.610	2	111,951
Maryland	St. Charles, MD	3.884	63.606	8.304	0.507	32.249	3.836	0	0
Maryland	Westminster, MD	1.416	18.396	11.878	0.915	16.825	2.048	1	55,976
Massachusetts	Leominster--Fitchburg, MA	2.560	42.924	24.469	1.459	62.631	7.676	2	111,951
Massachusetts	New Bedford, MA	4.891	61.641	5.145	0.408	25.162	5.457	0	0
Massachusetts	Pittsfield, MA	3.628	52.778	16.353	1.186	62.595	7.967	2	111,951
Michigan	Battle Creek, MI	3.960	52.370	6.545	0.495	25.917	6.945	0	0
Michigan	Bay City, MI	2.731	50.742	19.021	1.024	51.952	8.260	2	111,951
Michigan	Benton Harbor--St. Joseph, MI	1.898	21.336	7.137	0.635	13.546	2.797	0	0
Michigan	Holland, MI	1.108	13.897	8.664	0.691	9.600	3.413	0	0
Michigan	Jackson, MI	2.404	35.533	8.602	0.582	20.682	6.341	0	0
Michigan	Kalamazoo, MI	3.859	45.441	10.893	0.925	42.037	13.934	1	55,976
Michigan	Monroe, MI	2.742	34.833	9.090	0.716	24.929	5.569	0	0
Michigan	Muskegon, MI	3.889	46.436	5.127	0.412	19.939	4.833	0	0
Michigan	Port Huron, MI	1.528	23.896	21.161	1.353	32.343	11.412	2	111,951
Michigan	Saginaw, MI	4.611	75.934	5.728	0.348	26.411	7.480	0	0
Michigan	South Lyon--Howell--Brighton, MI	2.391	47.311	5.058	0.256	12.094	0.864	0	0
Minnesota	Duluth, MN--WI	6.992	91.508	16.485	1.260	115.268	27.047	5	279,878
Minnesota	Rochester, MN	5.232	81.424	12.731	0.818	66.608	17.797	2	111,951
Minnesota	St. Cloud, MN	5.446	72.968	17.707	1.321	96.423	26.082	3	167,927
Mississippi	Hattiesburg, MS	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Mississippi	Pascagoula, MS	7.223	381.146	4.422	0.084	31.939	0.716	2	111,951
Missouri	Columbia, MO	4.931	48.836	7.771	0.785	38.321	23.263	1	55,976
Missouri	Jefferson City, MO	1.979	30.049	10.051	0.662	19.887	7.118	0	0

FEDERAL TRANSIT ADMINISTRATION

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	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Missouri	Joplin, MO	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Missouri	Lee's Summit, MO	1.856	28.036	0.398	0.026	0.738	0.114	0	0
Missouri	St. Joseph, MO--KS	2.341	28.018	10.754	0.899	25.179	5.015	1	55,976
Montana	Billings, MT	3.941	51.514	7.166	0.548	28.243	7.390	0	0
Montana	Great Falls, MT	1.543	19.917	8.508	0.659	13.129	6.155	0	0
Montana	Missoula, MT	3.428	50.628	12.318	0.834	42.224	17.085	2	111,951
N. Mariana Islands	Saipan, MP	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Nevada	Carson City, NV	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New Hampshire	Dover--Rochester, NH--ME	8.349	128.003	7.236	0.472	60.412	11.980	2	111,951
New Hampshire	Manchester, NH	2.553	27.315	3.742	0.350	9.554	3.787	0	0
New Hampshire	Nashua, NH--MA	4.914	65.242	2.453	0.165	12.056	2.367	0	0
New Hampshire	Portsmouth, NH--ME	8.359	128.218	5.477	0.357	45.782	9.147	2	111,951
New Jersey	Hightstown, NJ	4.006	57.597	0.461	0.033	1.928	0.448	0	0
New Jersey	Vineland, NJ	1.335	20.495	5.621	0.366	7.505	1.085	0	0
New Jersey	Wildwood--North Wildwood--Cape May, NJ	1.335	20.495	17.653	1.150	23.572	3.407	2	111,951
New Mexico	Farmington, NM	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New Mexico	Las Cruces, NM	3.281	37.349	6.696	0.588	21.966	6.861	0	0
New Mexico	Santa Fe, NM	3.180	39.960	16.206	1.290	51.539	11.577	2	111,951
New York	Binghamton, NY--PA	4.943	71.385	16.923	1.172	83.655	20.049	3	167,928
New York	Elmira, NY	3.157	55.935	14.230	0.803	44.922	10.351	1	55,976
New York	Glens Falls, NY	3.456	56.081	5.765	0.355	19.923	5.544	0	0
New York	Ithaca, NY	4.262	66.552	39.592	2.536	168.747	63.776	4	223,902
New York	Kingston, NY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New York	Middletown, NY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New York	Saratoga Springs, NY	0.894	8.953	6.237	0.623	5.576	2.653	0	0
New York	Utica, NY	3.340	39.244	9.111	0.775	30.433	10.471	0	0
North Carolina	Burlington, NC	0.000	0.000	1.939	0.044	0.000	0.492	0	0
North Carolina	Concord, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Gastonia, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Goldsboro, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Greenville, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Hickory, NC	3.137	54.463	4.244	0.244	13.315	1.290	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
North Carolina	High Point, NC	1.664	29.883	11.550	0.643	19.217	8.013	0	0
North Carolina	Jacksonville, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Rocky Mount, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Wilmington, NC	1.812	27.385	11.971	0.792	21.693	9.216	0	0
North Dakota	Bismarck, ND	1.190	17.240	12.721	0.878	15.141	4.025	2	111,951
North Dakota	Fargo, ND--MN	4.771	61.629	8.958	0.694	42.741	13.582	0	0
North Dakota	Grand Forks, ND--MN	2.085	20.370	11.350	1.162	23.667	5.892	1	55,976
Ohio	Lima, OH	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Ohio	Lorain--Elyria, OH	3.094	54.397	5.628	0.320	17.416	2.881	0	0
Ohio	Mansfield, OH	2.792	32.974	3.994	0.338	11.153	3.600	0	0
Ohio	Middletown, OH	3.983	56.906	2.646	0.185	10.541	2.102	0	0
Ohio	Newark, OH	0.885	14.789	14.140	0.846	12.517	2.063	2	111,951
Ohio	Sandusky, OH	1.482	14.713	4.982	0.502	7.384	1.646	0	0
Ohio	Springfield, OH	2.519	28.633	3.042	0.268	7.661	4.203	0	0
Ohio	Weirton, WV--Steubenville, OH--PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Oklahoma	Lawton, OK	2.769	40.886	7.671	0.520	21.245	4.795	0	0
Oklahoma	Norman, OK	5.294	60.834	6.549	0.570	34.671	15.264	0	0
Oregon	Bend, OR	0.610	5.592	5.526	0.603	3.371	5.661	0	0
Oregon	Corvallis, OR	8.295	117.864	6.801	0.479	56.413	11.811	2	111,951
Oregon	Medford, OR	5.964	101.619	7.482	0.438	44.628	8.606	0	0
Pennsylvania	Altoona, PA	4.093	51.535	6.217	0.494	25.443	7.359	0	0
Pennsylvania	Erie, PA	3.688	44.564	15.632	1.294	57.647	16.819	3	167,927
Pennsylvania	Hazleton, PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Pennsylvania	Johnstown, PA	6.647	72.208	9.495	0.874	63.110	15.828	2	111,951
Pennsylvania	Lebanon, PA	3.489	59.031	12.638	0.747	44.093	5.802	1	55,976
Pennsylvania	Monessen, PA	13.956	189.769	4.836	0.356	67.491	2.863	2	111,951
Pennsylvania	Pottstown, PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Pennsylvania	State College, PA	10.680	150.260	24.859	1.767	265.493	99.558	6	335,853
Pennsylvania	Uniontown--Connellsville, PA	1.516	26.520	23.460	1.341	35.552	4.233	2	111,951
Pennsylvania	Williamsport, PA	7.472	112.841	14.307	0.947	106.906	22.104	6	335,853
Pennsylvania	York, PA	3.148	43.826	13.379	0.961	42.120	7.846	2	111,951
Puerto Rico	Arecibo, PR	3.160	36.365	13.204	1.147	41.728	9.413	2	111,951

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Puerto Rico	Fajardo, PR	3.533	41.489	24.297	2.069	85.840	18.507	3	167,927
Puerto Rico	Florida--Barceloneta--Bajadero, PR	3.558	39.479	4.045	0.365	14.394	3.206	0	0
Puerto Rico	Guayama, PR	4.427	44.348	13.130	1.311	58.127	14.079	2	111,951
Puerto Rico	Juana Diaz, PR	3.851	39.866	14.311	1.382	55.110	13.762	2	111,951
Puerto Rico	Mayaguez, PR	3.146	27.913	21.686	2.444	68.224	19.496	3	167,927
Puerto Rico	Ponce, PR	3.767	32.405	7.482	0.870	28.187	9.114	1	55,976
Puerto Rico	San German--Cabo Rojo--Sabana Grande, PR	3.399	39.932	10.104	0.860	34.342	7.285	1	55,976
Puerto Rico	Yauco, PR	3.345	36.870	17.738	1.609	59.337	12.253	2	111,951
South Carolina	Anderson, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Florence, SC	2.576	60.301	39.269	1.677	101.144	4.809	3	167,927
South Carolina	Mauldin--Simpsonville, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Myrtle Beach, SC	2.277	32.732	5.172	0.360	11.776	2.173	0	0
South Carolina	Rock Hill, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Spartanburg, SC	2.706	38.062	6.690	0.476	18.104	3.770	0	0
South Carolina	Sumter, SC	3.327	62.784	26.953	1.428	89.665	5.869	2	111,951
South Dakota	Rapid City, SD	2.424	26.356	7.094	0.652	17.193	4.536	0	0
South Dakota	Sioux Falls, SD	5.044	64.131	10.654	0.838	53.735	8.464	1	55,976
Tennessee	Bristol, TN--Bristol, VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Clarksville, TN--KY	3.162	49.586	10.710	0.687	34.073	6.128	0	0
Tennessee	Cleveland, TN	0.654	6.395	4.477	0.458	2.929	1.001	0	0
Tennessee	Jackson, TN	3.304	44.145	11.925	0.892	39.399	6.853	1	55,976
Tennessee	Johnson City, TN	3.621	41.649	5.910	0.514	21.397	5.703	0	0
Tennessee	Kingsport, TN--VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Morristown, TN	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Murfreesboro, TN	1.804	17.660	4.104	0.419	7.403	2.025	0	0
Texas	Abilene, TX	2.467	32.444	9.651	0.734	23.806	5.432	0	0
Texas	Amarillo, TX	1.742	26.239	4.794	0.318	8.349	1.991	0	0
Texas	Beaumont, TX	3.516	46.525	6.232	0.462	21.913	4.678	0	0
Texas	Brownsville, TX	14.240	168.529	5.961	0.504	84.883	9.950	2	111,951
Texas	College Station--Bryan, TX	1.290	21.963	4.845	0.285	6.248	2.767	0	0
Texas	Galveston, TX	3.678	39.935	7.737	0.712	28.453	9.128	0	0
Texas	Harlingen, TX	0.505	5.943	0.579	0.049	0.292	0.058	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Texas	Killeen, TX	2.823	47.247	5.393	0.322	15.224	1.860	0	0
Texas	Lake Jackson--Angleton, TX	1.947	32.631	1.636	0.098	3.185	0.190	0	0
Texas	Laredo, TX	7.097	76.229	10.796	1.005	76.616	22.987	3	167,927
Texas	Longview, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	McKinney, TX	1.236	19.476	7.786	0.494	9.625	1.292	0	0
Texas	Midland, TX	0.918	14.002	3.818	0.250	3.506	1.937	0	0
Texas	Odessa, TX	0.919	14.010	4.112	0.270	3.778	2.075	0	0
Texas	Port Arthur, TX	3.471	54.362	3.051	0.195	10.591	1.297	0	0
Texas	San Angelo, TX	1.393	21.442	13.106	0.851	18.255	3.560	2	111,951
Texas	Sherman, TX	2.274	37.095	9.432	0.578	21.447	1.712	0	0
Texas	Temple, TX	1.619	21.528	7.682	0.542	11.668	1.978	0	0
Texas	Texarkana, TX--Texarkana, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Texas City, TX	1.499	27.934	3.237	0.174	4.852	0.366	0	0
Texas	The Woodlands, TX	33.409	893.864	4.378	0.164	146.251	4.067	3	167,927
Texas	Tyler, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Victoria, TX	1.024	14.161	10.461	0.756	10.707	4.613	0	0
Texas	Waco, TX	3.661	57.430	6.330	0.406	23.297	4.350	0	0
Texas	Wichita Falls, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Utah	Logan, UT	5.995	86.075	10.918	0.743	65.457	21.315	1	55,976
Utah	St. George, UT	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Vermont	Burlington, VT	6.077	84.982	15.599	1.115	94.791	24.220	3	167,927
Virgin Islands	Virgin Islands	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Virginia	Blacksburg, VA	7.574	81.380	19.442	1.609	147.248	62.029	5	279,878
Virginia	Charlottesville, VA	3.233	40.420	27.023	2.162	87.368	27.689	3	167,927
Virginia	Danville, VA	3.863	61.296	6.708	0.423	25.914	5.012	0	0
Virginia	Fredericksburg, VA	4.219	78.838	11.578	0.620	48.843	5.478	0	0
Virginia	Harrisonburg, VA	8.399	82.943	10.497	1.063	88.165	32.472	3	167,927
Virginia	Lynchburg, VA	3.200	41.552	13.483	1.038	43.139	30.163	3	167,927
Virginia	Roanoke, VA	5.269	70.769	9.177	0.683	48.352	10.178	0	0
Virginia	Winchester, VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Washington	Bellingham, WA	5.939	92.266	38.391	2.471	228.016	70.072	4	223,902
Washington	Bremerton, WA	5.557	106.762	21.636	1.126	120.223	20.914	4	223,902

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Washington	Kennewick--Richland, WA	7.058	169.159	65.952	2.752	465.492	35.730	6	335,853
Washington	Longview, WA--OR	5.394	60.244	6.233	0.558	33.624	8.179	0	0
Washington	Marysville, WA	5.761	93.885	10.262	0.630	59.124	8.750	0	0
Washington	Mount Vernon, WA	4.921	96.172	30.412	1.556	149.649	12.425	3	167,927
Washington	Olympia--Lacey, WA	6.667	128.871	46.012	2.380	306.741	35.649	6	335,854
Washington	Wenatchee, WA	7.045	87.017	13.462	1.090	94.833	10.304	3	167,927
Washington	Yakima, WA	5.017	75.843	14.733	0.975	73.916	13.571	2	111,951
West Virginia	Charleston, WV	5.578	90.868	14.991	0.920	83.618	13.622	2	111,951
West Virginia	Huntington, WV--KY--OH	2.680	39.710	7.130	0.481	19.107	4.671	0	0
West Virginia	Morgantown, WV	1.175	18.818	16.463	1.029	19.371	17.373	3	167,927
West Virginia	Parkersburg, WV--OH	0.000	0.000	0.000	0.000	0.000	0.000	0	0
West Virginia	Wheeling, WV--OH	1.707	20.672	8.021	0.662	13.688	4.922	0	0
Wisconsin	Appleton, WI	2.000	29.208	10.528	0.721	21.056	6.015	0	0
Wisconsin	Beloit, WI--IL	2.908	44.549	7.810	0.510	22.710	5.439	0	0
Wisconsin	Eau Claire, WI	2.932	40.108	12.144	0.888	35.610	11.159	1	55,976
Wisconsin	Fond du Lac, WI	0.985	12.501	7.846	0.618	7.725	3.774	0	0
Wisconsin	Green Bay, WI	3.025	43.134	8.412	0.590	25.450	7.598	0	0
Wisconsin	Janesville, WI	3.601	55.140	7.606	0.497	27.394	7.031	0	0
Wisconsin	Kenosha, WI	4.299	61.503	10.697	0.748	45.985	15.181	0	0
Wisconsin	La Crosse, WI--MN	3.093	40.538	14.226	1.086	44.005	14.173	2	111,951
Wisconsin	Oshkosh, WI	3.224	45.794	13.198	0.929	42.544	14.223	2	111,951
Wisconsin	Racine, WI	3.864	49.378	10.169	0.796	39.290	11.027	0	0
Wisconsin	Sheboygan, WI	1.771	23.622	11.374	0.653	20.143	7.556	1	55,976
Wisconsin	Wausau, WI	3.902	56.880	11.603	0.796	45.279	12.053	0	0
Wyoming	Casper, WY	1.000	11.020	7.499	0.680	7.499	2.984	0	0
Wyoming	Cheyenne, WY	2.659	39.452	7.145	0.482	18.996	4.007	0	0
						Total		315	$17,632,310

FEDERAL TRANSIT ADMINISTRATION

TABLE 10

Prior Year Unobligated Section 5309 Bus and Bus Related Equipment and Facilities as of September 30, 2010

State	Earmark ID	Project Location and Description	Unobligated Allocation
FY 2009 Unobligated Allocations			
AK	E2009-BUSP-001	Alaska Native Medical Center intermodal parking facility	$1,350,000
AK	E2009-BUSP-003	Bus Acquisition, Fairbanks North Star Borough Transit	798,000
AK	E2009-BUSP-004	C Street Expanded bus facility and inter-modal parking garage, Anchorage, AK	1,350,000
AK	E2009-BUSP-011	Ketchikan, Alaska-Transit Needs	68,000
AK	E2009-BUSP-012	MASCOT Bus Bay Expansion, Mat-Su Borough	665,000
AK	E2009-BUSP-015	North Slope Borough, AK-Transit Purposes	549,000
AK	E2009-BUSP-016	North Star Borough, AK-Transit Purposes	274,000
AK	E2009-BUSP-018	Statewide Bus and Bus Facility Enhancements	570,000
AK	E2009-BUSP-019	Wrangell, AK-Ferry Infrastructure	274,000
AL	E2009-BUSP-021	Alabama Senior Transportation	950,000
AL	E2009-BUSP-024	Baldwin County Bus and Bus Facilities Project	950,000
AL	E2009-BUSP-025	Birmingham, AL Expansion of Downtown Intermodal Facility, Phase II	451,440
AL	E2009-BUSP-026	City of Birmingham, AL-Birmingham Downtown Intermodal Terminal, Phase II	1,372,000
AL	E2009-BUSP-027	City of Huntsville, AL- Cummings Park Intermodal Center	40,004
AL	E2009-BUSP-028	City of Montgomery, AL-ITS Acquisition and Implementation	1,097,000
AL	E2009-BUSP-032	Gulf Shores, AL-- Bus and Bus facilities	274,000
AL	E2009-BUSP-033	Marshall County Vehicle Replacement for Seniors and for the Mentally Disabled	285,000
AL	E2009-BUSP-034	Mobile County, AL Commission-Bus project	137,000
AL	E2009-BUSP-035	Replacement of Buses and Vans, Birmingham-Jefferson County Transit Authority	1,425,000
AL	E2009-BUSP-036	University of Alabama Bus and Bus Facility Project	475,000
AL	E2009-BUSP-038	University of Alabama in Huntsville Intermodal Facility	1,646,000
AL	E2009-BUSP-040	University of Alabama Transit System	411,000
AR	E2009-BUSP-042	Central Arkansas Transit Authority, Bus Acquisition	1,000,000
AZ	E2009-BUSP-048	Coconino County buses and bus facilities for Flagstaff, AZ	282,150
AZ	E2009-BUSP-049	Coconino County, Arizona-Bus and bus facilities for the Sedona Transit System	214,434
AZ	E2009-BUSP-050	Phoenix, AZ Construct City of Phoenix para-transit facility (Dial-A-Ride)	225,720
AZ	E2009-BUSP-051	Phoenix, AZ Construct metro bus facility in Phoenixs West Valley	1,128,600
AZ	E2009-BUSP-052	Phoenix, AZ Construct regional heavy bus maintenance facility	225,720
AZ	E2009-BUSP-053	Scottsdale, Arizona-Plan, design, and construct intermodal center	564,300
AZ	E2009-BUSP-054	South Mountain Circulator Bus, Phoenix	950,000
AZ	E2009-BUSP-055	Tempe, Arizona-Construct East Valley Metro Bus Facility	1,467,180
CA	E2009-BUSP-060	Baldwin Park, CA Construct vehicle and bicycle parking lot and pedestrian rest area at transit center	451,440
CA	E2009-BUSP-063	Burbank, CA Construction of Empire Area Transit Center near Burbank Airport	56,430
CA	E2009-BUSP-067	Calexico, CA Purchase new buses for the Calexico Transit System	67,716
CA	E2009-BUSP-072	City of Livermore, CA Construct Bus Facility for Livermore Amador Valley Transit Authority	507,870
CA	E2009-BUSP-076	Covina, El Monte, Baldwin Park, Upland, CA Parking and Electronic Signage Improvements	395,010
CA	E2009-BUSP-078	Davis, CA Davis Multi-Modal Station to improve entrance to Amtrak Depot and parking lot, provide additional parking and improve service	225,720
CA	E2009-BUSP-086	Fresno, CA-Develop program of low-emission transit vehicles	225,720
CA	E2009-BUSP-088	Glassell park Transit Pavilion, Los Angeles	190,000
CA	E2009-BUSP-089	Glendale, CA Construction of Downtown Streetcar Project	225,720
CA	E2009-BUSP-092	Hercules, CA Inter-modal Rail Station Improvements	338,580
CA	E2009-BUSP-093	Historic Filipinotown Bus Security Lights, Los Angeles	62,700
CA	E2009-BUSP-094	Intermodal Station, Vacaville	475,000
CA	E2009-BUSP-097	Long Beach, CA Park and Ride Facility	225,720
CA	E2009-BUSP-113	Martinez, CA Inter-modal Facility Restoration	338,580
CA	E2009-BUSP-114	Metro Gold Line Foothill Extension Light Rail Transit Project from Pasadena, CA to Montclair, CA	3,365,800
CA	E2009-BUSP-116	Monrovia Transit Village Improvements	237,500
CA	E2009-BUSP-117	Monrovia, California-Transit Village Project	677,160
CA	E2009-BUSP-118	Montebello, CA Bus Lines Bus Fleet Replacement Project	158,004
CA	E2009-BUSP-124	MTOC Clean Fuel Bus Purchases and Facility Enhancements	475,000
CA	E2009-BUSP-128	Norwalk/Santa Fe Springs Transportation Center Improvements, Santa Fe Springs	475,000
CA	E2009-BUSP-137	Palmdale Transportation Center Metrolink Platform Extension	380,000
CA	E2009-BUSP-140	Purchase Clean Fuel Buses for Long Beach Transit	950,000
CA	E2009-BUSP-141	Purchase CNG Buses for Foothill Transit	1,187,500
CA	E2009-BUSP-142	Redondo Beach, CA Capital Equipment procurement of 12. Compressed Natural Gas (CNG) Transit Vehicles for Coastal Shuttle Services by Beach Cities Tran	180,576
CA	E2009-BUSP-146	Sacramento, CA Bus enhancement and improvements-construct maintenance facility and purchase clean-fuel buses to improve transit service	451,440
CA	E2009-BUSP-147	Sacramento, improvements to the existing Sacramento Intermodal Facility (Sacramento Valley Station)	1,580,040
CA	E2009-BUSP-150	San Diego, CA Widen sidewalks and bus stop entrance, and provide diagonal parking, in the Skyline Paradise Hills neighborhood (Reo Drive)	67,716
CA	E2009-BUSP-151	San Fernando Valley, CA Reseda Blvd. Bus Rapid Transit Route	135,432
CA	E2009-BUSP-152	San Fernando, CA Purchase CNG buses and related equipment and construct facilities	686,189
CA	E2009-BUSP-156	San Francisco, CA Redesign and renovate intermodal facility at Glen Park Community	931,095
CA	E2009-BUSP-157	San Gabriel Valley, CA-Foothill Transit Park and Rides	2,144,340
CA	E2009-BUSP-160	Santa Ana, CA Improve Santa Ana Transit terminal	225,720

FEDERAL TRANSIT ADMINISTRATION

TABLE 10

Prior Year Unobligated Section 5309 Bus and Bus Related Equipment and Facilities as of September 30, 2010

State	Earmark ID	Project Location and Description	Unobligated Allocation
CA	E2009-BUSP-164	Santa Monica, CA Construct intermodal park-and-ride facility at Santa Monica College campus on South Bundy Drive near Airport Avenue	225,720
CA	E2009-BUSP-167	Solana Beach, CA-Construct Intermodal Facility	338,580
CA	E2009-BUSP-168	Sonoma County, CA Purchase of CNG buses	112,860
CA	E2009-BUSP-169	South Pasadena, CA Silent Night Grade Crossing Project	203,148
CA	E2009-BUSP-177	Transit Station Expansion Project (Metrolink Parking Lot), Rialto	285,000
CA	E2009-BUSP-178	Tri-Delta Transit Park and Ride Lots, Eastern Contra Costa County	641,250
CA	E2009-BUSP-948	San Francisco Water Transit Authority	2,500,000
CA	E2009-BUSP-956	Fuel Cell Bus Program (Earmark designated for MA, CA and GA)	3,000,000
CO	E2009-BUSP-185	Colorado Association of Transit Agencies/Colorado Transit Coalition-Colorado Statewide Buses and Bus Facilities	921,817
CO	E2009-BUSP-192	Grand Valley Transit, CO Bus and Bus Facilities	112,860
CT	E2009-BUSP-199	Bridgeport Intermodal Transportation Center	2,850,000
CT	E2009-BUSP-203	Downtown Middletown, CT, Transportation Infrastructure Improvement Project	2,850,000
CT	E2009-BUSP-206	Middletown, CT Construct intermodal center	338,580
CT	E2009-BUSP-208	New London, Connecticut-Intermodal Transportation Center and Streetscapes	112,860
CT	E2009-BUSP-210	Stonington and Mystic, Connecticut-Intermodal Center parking facility and Streetscape	550,757
CT	E2009-BUSP-211	Torrington, CT Construct bus-related facility (Northwestern Connecticut Central Transit District)	451,440
CT	E2009-BUSP-212	Vernon, Connecticut-Intermodal Center, Parking and Streetscapes	1,715,472
CT	E2009-BUSP-213	Waterbury, CT Bus Maintenance Facility	3,400,000
DC	E2009-BUSP-214	Union Station Intermodal Transportation Center, Washington	475,000
FL	E2009-BUSP-217	Amtrak Station Construction and Improvements, Winter Park	950,000
FL	E2009-BUSP-220	Broward County, FL - Purchase Buses and construct bus facilities	451,440
FL	E2009-BUSP-221	Broward County, FL Buses & Bus Facilities	1,467,180
FL	E2009-BUSP-222	Broward County-Bus and Bus Facilities	549,000
FL	E2009-BUSP-223	Broward, FL Purchase new articulated buses and bus stop improvements on State Road 7, (SR 7) between Golden Glades Interchange and Glades Road	112,860
FL	E2009-BUSP-224	Bus Facility, North Bay Village	475,000
FL	E2009-BUSP-226	Central Avenue BRT Corridor Station Development and Enhancements	475,000
FL	E2009-BUSP-227	Central Florida Commuter Rail Intermodal Facilities	810,000
FL	E2009-BUSP-228	Central Florida Regional Transportation Authority-LYNX Bus Fleet Expansion Program	1,372,000
FL	E2009-BUSP-230	Collier County Transit-Transit Facility	274,000
FL	E2009-BUSP-231	Construction of Bus Stations in Altamonte, Lake Mary, Longwood, and Sanford	1,425,000
FL	E2009-BUSP-233	Design, Acquisition of ROW, and Construction of the Regional Intermodal Terminal Center, Jacksonville	475,000
FL	E2009-BUSP-234	Design, engineering, right-of-way acquisition and construction intermodal transportation & parking facility, City of Winter Park	112,860
FL	E2009-BUSP-235	Design, engineering, right-of-way acquisition, and construction Central Florida Commuter Rail intermodal facilities	1,128,600
FL	E2009-BUSP-236	Doral Transit Circulator Program, City of Doral	475,000
FL	E2009-BUSP-248	Lakeland Area Mass Transit District Bus Replacement and Facility Maintenance	285,000
FL	E2009-BUSP-249	Lakeland Area Mass Transit District/Citrus Connection-Capital Funding Needs	549,000
FL	E2009-BUSP-250	Levy County, Florida-Purchase 2. wheel chair equipped passenger buses and related equipment	67,716
FL	E2009-BUSP-252	Lower Keys Shuttle Bus Facilities, Key West	950,000
FL	E2009-BUSP-253	LYNX Buses, Orange County	237,500
FL	E2009-BUSP-255	Miami Lakes Hybrid Electric Vehicles and Trolleybus Procurement	570,000
FL	E2009-BUSP-256	Miami-Dade County, Florida-buses and bus facilities	1,354,320
FL	E2009-BUSP-257	Miami-Dade County, Florida-buses and bus facilities	902,880
FL	E2009-BUSP-258	Miami-Dade County, Florida-Transit Security System	674,903
FL	E2009-BUSP-260	Miami-Dade Transit Bus Procurement Plan	475,000
FL	E2009-BUSP-261	Miami-Dade Transit Dadeland South Intermodal Center	540,000
FL	E2009-BUSP-263	Ocala and Marion County, Florida-replacement buses	677,160
FL	E2009-BUSP-264	Orlando, FL Bus Replacement	902,880
FL	E2009-BUSP-265	Orlando, Florida-LYNX Bus Fleet Expansion Program	203,148
FL	E2009-BUSP-271	Pembroke Pines Senior Center Bus Procurement	475,000
FL	E2009-BUSP-273	Polk County Transit System	285,000
FL	E2009-BUSP-274	Purchase Buses and construct bus facilities in Broward County, FL	507,870
FL	E2009-BUSP-275	Purchase Buses and construct bus facilities in Broward County, FL	451,440
FL	E2009-BUSP-279	St. Augustine, Florida-Intermodal Transportation Center and related pedestrian and landscape improvements	225,720
FL	E2009-BUSP-285	LYNX Buses, Orlando	2,850,000
GA	E2009-BUSP-288	Athens, GA Buses and Bus Facilities	320,522
GA	E2009-BUSP-289	Athens-Clarke County Transit, Bus Procurement	1,330,000
GA	E2009-BUSP-290	Atlanta, GA Inter-modal Passenger Facility Improvements	451,440
GA	E2009-BUSP-293	Augusta, GA Buses and Bus Facilities	90,288
GA	E2009-BUSP-294	Bus and Related Facilities Replacement, Albany	475,000
GA	E2009-BUSP-297	Columbus, GA Bus replacement	67,716
GA	E2009-BUSP-299	Columbus, Georgia-Buses & Bus Facilities	216,723
GA	E2009-BUSP-300	Georgia Department of Transportation-Georgia Statewide Bus and Bus Facilities	2,156,232
GA	E2009-BUSP-301	Georgia Statewide Bus Program	45,144
GA	E2009-BUSP-302	GRTA Park and Ride Facility, Rockdale County	190,000

FEDERAL TRANSIT ADMINISTRATION

TABLE 10

Prior Year Unobligated Section 5309 Bus and Bus Related Equipment and Facilities as of September 30, 2010

State	Earmark ID	Project Location and Description	Unobligated Allocation
GA	E2009-BUSP-310	Savannah, Georgia-Water Ferry River walk intermodal facilities	451,440
GA	E2009-BUSP-956	Fuel Cell Bus Program (Earmark designated for MA, CA and GA)	1,929,887
GU	E2009-BUSP-313	Guam Mass Transit Bus Maintenance Facility	237,500
HI	E2009-BUSP-316	Honolulu, HI, Bus Facilities	1,300,000
IA	E2009-BUSP-318	Ames, Iowa-Expansion of CyRide Bus Maintenance Facility	451,440
IA	E2009-BUSP-319	Black Hawk County, IA UNI Multimodal Project	335,155
IA	E2009-BUSP-321	Dubuque Downtown Transportation Center Intermodal Facility, Dubuque	237,500
IA	E2009-BUSP-324	Transit Maintenance Facility, Davenport	380,000
ID	E2009-BUSP-327	Idaho Transit Coalition Buses and Bus Facilities	1,462,934
ID	E2009-BUSP-328	Treasure Valley Transit Facilities	475,000
IL	E2009-BUSP-330	Centralia, Illinois-South Central Mass Transit District Improvements	90,288
IL	E2009-BUSP-331	Champaign, IL-Construct park and ride lot with attached daycare facility	338,580
IL	E2009-BUSP-349	Replacement of Paratransit Vehicles, Greater Peoria Mass Transit District, Peoria	380,000
IL	E2009-BUSP-352	Springfield, IL, Multimodal Transit Terminal	1,800,000
IL	E2009-BUSP-355	Toyota Park Pace Transit Center	475,000
IN	E2009-BUSP-363	Indianapolis, IN IndySMART program to relieve congestion, improve safety and air quality	451,440
IN	E2009-BUSP-369	Park and Ride Facility, Indiana University	475,000
KS	E2009-BUSP-378	Unified Government Transit, Bus Replacements, Bus Expansions and Bus Facilities	475,000
KY	E2009-BUSP-381	Frankfort Transit	950,000
KY	E2009-BUSP-382	Intermodal Transit Facility for LKLP Community Action Council, Hazard	237,500
KY	E2009-BUSP-385	Richmond, KY Purchase buses, bus equipment and facilities	162,518
KY	E2009-BUSP-386	Route System Project, Murray Calloway Transit Authority, Murray	1,496,250
LA	E2009-BUSP-390	Capital Area Transit System-Baton Rouge BRT	823,000
LA	E2009-BUSP-396	Louisiana Department of Transportation and Development-Statewide Vehicles and Equipment	274,000
LA	E2009-BUSP-397	Louisiana Statewide Bus and Bus Facility	88,349
LA	E2009-BUSP-398	Louisiana-Construct pedestrian walkways between Caddo St. and Milam St. along Edwards St. in Shreveport, LA	228,720
LA	E2009-BUSP-399	New Orleans, LA Inter-modal Riverfront Center	112,860
LA	E2009-BUSP-401	New Orleans, LA Regional Planning Commission, bus and bus facilities	112,860
LA	E2009-BUSP-404	Shreveport, LA-intermodal Transit Facility	756,162
LA	E2009-BUSP-406	Southern University Intermodal Transit Facility System	475,000
MA	E2009-BUSP-408	Attleboro, MA Construction, engineering and site improvements at the Attleboro Intermodal Center	451,440
MA	E2009-BUSP-412	Brockton, MA Bus replacement for the Brockton Area Transit Authority	338,580
MA	E2009-BUSP-413	Bus Terminal, Fall River	950,000
MA	E2009-BUSP-414	Chelsea Intermodal Parking Garage, Chelsea	855,000
MA	E2009-BUSP-416	FRTA and FRCOD Transit Center, Greenfield	1,900,000
MA	E2009-BUSP-420	Intermodal Station Improvements, Cities of Salem and Beverly	391,875
MA	E2009-BUSP-423	Lowell, MA Implementation of LRTA bus replacement plan	225,720
MA	E2009-BUSP-424	Lowell, MA, Lowell Regional Transit	1,150,000
MA	E2009-BUSP-425	Medford, MA Downtown revitalization featuring construction of a 200 space Park and Ride Facility	451,440
MA	E2009-BUSP-426	Newburyport, MA Design and Construct Intermodal Facility	451,440
MA	E2009-BUSP-428	Quincy, MA MBTA Purchase high speed catamaran ferry for Quincy Harbor Express Service	451,440
MA	E2009-BUSP-429	Rapid Transit Handicap Accessibility, Newton	380,000
MA	E2009-BUSP-430	Revere, MA Inter-modal transit improvements in the Wonderland station (MBTA) area	406,296
MA	E2009-BUSP-432	Salem, MA Design and Construct Salem Intermodal Transportation Center	451,440
MA	E2009-BUSP-433	Salem, Saugus, Topsfield Vans	212,800
MA	E2009-BUSP-434	Southeastern Regional Transit Authority (SRTA) Bus Fleet Replacement	665,000
MA	E2009-BUSP-436	Wonderland Station Intermodal Transit Improvements, City of Revere	950,000
MA	E2009-BUSP-949	Massachusetts Bay Transportation Authority Ferry System	2,200,000
MA	E2009-BUSP-956	Fuel Cell Bus Program (Earmark designated for MA, CA and GA)	1,000,000
MD	E2009-BUSP-439	Howard County Hybrid Electric Buses	475,000
MD	E2009-BUSP-443	Maryland Statewide Bus Facilities and Buses	6,079,734
MD	E2009-BUSP-445	Mount Rainier, MD Intermodal and Pedestrian Project	101,574
MD	E2009-BUSP-449	Statewide Locally Operated Transit Systems (LOTS), Bus and Facility Improvements	1,900,000
MI	E2009-BUSP-457	Boysville of Michigan Transportation System	758,419
MI	E2009-BUSP-464	Caro Transit Authority Bus Replacement, Caro	72,574
MI	E2009-BUSP-487	Marquette County, Michigan Transit Authority Bus passenger facility	300,000
MI	E2009-BUSP-491	Muskegon Area Transit System	427,500
MI	E2009-BUSP-492	Muskegon, Michigan-Muskegon Area Transit Terminal and related improvements	451,440
MI	E2009-BUSP-493	Niles Dial-a-Ride Bus Acquisition	228,000
MN	E2009-BUSP-499	Cedar Avenue Bus Rapid Transit	950,000
MN	E2009-BUSP-500	Duluth, MN Downtown Duluth Area Transit facility improvements	451,440
MN	E2009-BUSP-502	Greater Minnesota Transit Capital	1,100,000
MN	E2009-BUSP-504	Red Rock Corridor Intermodal Bus and Bus Facilities, Newport	475,000
MO	E2009-BUSP-514	Springdale Metrolink Station, St. Louis County	380,000
MS	E2009-BUSP-517	Coahoma County, Mississippi Purchase buses for the Aaron E. Henry Community Health Services Center, Inc./DARTS transit service	33,858
MS	E2009-BUSP-518	Harrison County Multi-Modal Facilities	2,850,000
MS	E2009-BUSP-520	JATRAN Light Rail Feasibility Study	475,000

FEDERAL TRANSIT ADMINISTRATION

TABLE 10

Prior Year Unobligated Section 5309 Bus and Bus Related Equipment and Facilities as of September 30, 2010

State	Earmark ID	Project Location and Description	Unobligated Allocation
MT	E2009-BUSP-523	Montana Department of Transportation-Statewide Bus Facilities and Buses	823,000
MT	E2009-BUSP-524	Montana Paratransit System Bus Replacement, Billings	247,000
NC	E2009-BUSP-533	City of Greenville, NC Expansion Buses and Greenville Intermodal Center	804,466
NC	E2009-BUSP-535	Goldsboro Union Depot Multimodal	855,000
NC	E2009-BUSP-541	North Carolina Department of Transportation-North Carolina Statewide Bus and Bus Facilities	5,926,155
NC	E2009-BUSP-544	Town of Chapel Hill, NC Park and Ride Lot	338,580
ND	E2009-BUSP-546	ND Statewide Transit	800,000
ND	E2009-BUSP-547	North Dakota Department of Transportation/Statewide Bus	600,000
NE	E2009-BUSP-548	City of Omaha-Creighton University Intermodal Facility	823,000
NE	E2009-BUSP-549	Kearney, Nebraska-RYDE Transit Bus Maintenance and Storage Facility	451,440
NE	E2009-BUSP-550	Nebraska Department of Roads-Bus Maintenance and Storage Facility for RYDE in Kearney, NE	549,000
NH	E2009-BUSP-554	Statewide Bus and Bus Facilities, Concord	475,000
NH	E2009-BUSP-556	Windham, New Hampshire--Construction of Park and Ride Bus facility at Exit 3	835,164
NJ	E2009-BUSP-557	Atlantic City, NJ Jitney	750,000
NJ	E2009-BUSP-558	Bloomfield Intermodal Improvements	1,900,000
NJ	E2009-BUSP-562	Intermodal Transit Improvements, Northwest	712,500
NJ	E2009-BUSP-563	Jersey City, NJ Construct West Entrance to Pavonia-Newport PATH Station	451,440
NJ	E2009-BUSP-569	Morristown/Montclair-Boonton Commuter Rail Intermodal Improvements, Northern	950,000
NJ	E2009-BUSP-570	National Park Service Design and construct 2.1-mile segment to complete Sandy Hook multiuse pathway in Sandy Hook, NJ	225,720
NJ	E2009-BUSP-575	Sandy Hook, NJ National Park Service Construct year-round ferry dock at Sandy Hook Unit of Gateway National Recreation Area	225,720
NJ	E2009-BUSP-576	Senior Citizen Transportation Vehicle, North Arlington	95,000
NJ	E2009-BUSP-579	South Brunswick Municipal Area Residential Transit	380,000
NJ	E2009-BUSP-580	South Brunswick, NJ Transit System	1,000,000
NJ	E2009-BUSP-581	The Arc of Mercer County Mobile Transportation Service Vehicle Procurement	95,000
NJ	E2009-BUSP-584	Trenton, NJ Development of Trenton Trolley System	225,720
NM	E2009-BUSP-589	City of Rio Rancho Transit Program	313,500
NM	E2009-BUSP-590	Design and Construction of an Intermodal Transportation Center for Los Lunas	950,000
NM	E2009-BUSP-593	Navajo Transit Vehicles and Facilities	237,500
NM	E2009-BUSP-595	Transit Maintenance and Operations Facility, City of Las Cruces	617,500
NV	E2009-BUSP-597	Lake Tahoe Bus Facilities	475,000
NY	E2009-BUSP-610	Alternative Fuel Bus, Village of East Rockaway	380,000
NY	E2009-BUSP-611	Arverne East Transit Plaza	712,500
NY	E2009-BUSP-616	Bronx, NY Hebrew Home for the Aged elderly and disabled transportation support	3
NY	E2009-BUSP-625	Buffalo, NY Inter-modal Center Parking Facility	225,720
NY	E2009-BUSP-626	Bus Maintenance Facility Improvements Westchester County	712,500
NY	E2009-BUSP-627	Bus to provide York-town New York internal circulator to provide transportation throughout the Town	41,758
NY	E2009-BUSP-628	Capital District Transportation Authority Saratoga Bus Facility Saratoga Springs	712,500
NY	E2009-BUSP-629	CDTA Replacement Buses	712,500
NY	E2009-BUSP-634	Cornwall, NY-Purchase Bus	19,638
NY	E2009-BUSP-635	Geneva, New York-Multimodal facility-Construct passenger rail center	112,860
NY	E2009-BUSP-636	Glen Cove Connector Multi-Modal Parking Hub Design Engineering and Construction	950,000
NY	E2009-BUSP-638	Jewish Community Council of Rockland Transit Buses	380,000
NY	E2009-BUSP-644	New York City, NY Purchase Handicapped-Accessible Livery Vehicles	225,720
NY	E2009-BUSP-645	New York City, NY rehabilitation of subway stations to include passenger access improvements including escalators or installation of infrastructure fo	50,000
NY	E2009-BUSP-649	New York Improvements to Moynihan Station	1,500,000
NY	E2009-BUSP-654	Oneonta New York-bus replacement	33,858
NY	E2009-BUSP-655	Ramapo, NY Transportation Safety Field Bus	56,430
NY	E2009-BUSP-656	Rochester Genesee Regional Transportation Authority Satellite Transit Center Construction	237,500
NY	E2009-BUSP-657	Rochester, New York-Renaissance Square transit center	1,015,740
NY	E2009-BUSP-658	Rochester, New York-Renaissance Square Transit Center	507,870
NY	E2009-BUSP-659	Rochester, NY Renaissance Square Intermodal Facility Design and Construction	2,000,000
NY	E2009-BUSP-665	Town of Warwick, NY Bus Facility Warwick Transit System	124,146
NY	E2009-BUSP-668	Utica, New York Transit Multimodal Facilities	1,350,000
NY	E2009-BUSP-671	Westchester County, NY Bus replacement program	846,450
NY	E2009-BUSP-672	Yonkers, NY Trolley Bus Acquisition	84,645
NY	E2009-BUSP-954	Staten Island Ferry	1,000,000
OH	E2009-BUSP-678	Cincinnati, Ohio-Metro Regional Transit Hub Network Eastern Neighborhoods	208,791
OH	E2009-BUSP-681	Cleveland, OH Construct passenger inter-modal center near Dock 32	194,119
OH	E2009-BUSP-691	Downtown Intermodal Facility and Associated Parking, Springfield	712,500
OH	E2009-BUSP-699	Niles OH Acquisition of bus operational and service equipment of Niles Trumbull Transit	45,144
OK	E2009-BUSP-705	Bus Replacement Central Oklahoma Transportation and Parking Authority Oklahoma City	712,500
OK	E2009-BUSP-706	Oklahoma Automated Vehicle Location System Oklahoma City	237,500
OK	E2009-BUSP-707	Oklahoma City Bus Replacement	1,330,000
OK	E2009-BUSP-708	Sect. 5309 Capital Appropriation-Tulsa Transit	712,500
OR	E2009-BUSP-709	Albany, OR North Albany Park and Ride	214,971
OR	E2009-BUSP-710	Albany, OR Rehabilitate Building At Multimodal Transit Station	343,954
OR	E2009-BUSP-714	Corvallis, OR Bus Replacement	333,206

FEDERAL TRANSIT ADMINISTRATION

TABLE 10

Prior Year Unobligated Section 5309 Bus and Bus Related Equipment and Facilities as of September 30, 2010

State	Earmark ID	Project Location and Description	Unobligated Allocation
OR	E2009-BUSP-715	Eugene, OR Lane Transit District, Vehicle Replacement	806,143
OR	E2009-BUSP-716	Grants Pass OR Purchase Vehicles For Use By Josephine Community Transit	45,950
OR	E2009-BUSP-719	Lincoln County, OR bus purchase	56,430
OR	E2009-BUSP-721	Portland, OR Renovation of Union Station including structural reinforcement and public safety upgrades	22,572
OR	E2009-BUSP-722	Salem, OR bus and bus facilities	451,440
OR	E2009-BUSP-725	Transit Bus and Bus Facilities Salem-Keizer	475,000
OR	E2009-BUSP-727	Yamhill County, OR For the construction of bus shelters park and ride facilities and a signage strategy to increase ridership	24,829
OR	E2009-BUSP-728	Hillsboro Intermodal Transit Facility	1,852,500
PA	E2009-BUSP-729	69th Street Terminal Parking Facility Upper Darby	380,000
PA	E2009-BUSP-736	Bus and Bus Facilities Westmoreland County Transit Authority	950,000
PA	E2009-BUSP-737	Bus Facilities Cambria County Transit Authority	285,000
PA	E2009-BUSP-746	Cheltenham, PA Glenside Rail Station Parking Garage project involving the construction of a 300-400 space parking lot at Easton Road and Glenside Aven	225,720
PA	E2009-BUSP-751	EMTA Consolidated Transit Facility Erie	475,000
PA	E2009-BUSP-757	Intermodal Facilities in Bucks County (Croydon and Levittown Stations)	677,160
PA	E2009-BUSP-765	Philadelphia, PA Cruise Terminal Transportation Ctr. Phila. Naval Shipyard	790,020
PA	E2009-BUSP-766	Philadelphia, PA Improvements to the existing Penns Landing Ferry Terminal	902,880
PA	E2009-BUSP-769	Philadelphia PA SEPTAs Market St. Elevated Rail project in conjunction with Philadelphia Commercial Development Corporation for improvements and assis	316,008
PA	E2009-BUSP-770	Philadelphia, Pennsylvania-SEPTA Market Street Elevated Line parking facility	902,880
PA	E2009-BUSP-773	Project provides for the engineering and construction of a transportation center in Paoli Chester County	225,720
PA	E2009-BUSP-777	Septa R7 Station Improvements Croydon and Levittown	380,000
PA	E2009-BUSP-779	Southeastern Pennsylvania Transportation Authority-Bucks County Intermodal (Croydon and Levittown)	823,000
PA	E2009-BUSP-780	Southeastern Pennsylvania Transportation Authority-Paoli Transportation Center	823,000
PA	E2009-BUSP-781	Southeastern Pennsylvania Transportation Authority-Villanova-SEPTA Intermodal	724,458
PA	E2009-BUSP-782	TMA Clean Buses Buck County	475,000
PA	E2009-BUSP-785	Van Pool Equipment Johnsonburg	285,000
PA	E2009-BUSP-955	Philadelphia Penns Landing Ferry Terminal	1,000,000
PA	E2009-BUSP-957	Bus Testing	3,000,000
PR	E2009-BUSP-794	Puerto Rico-Caribbean National Forest buses and nonprofit uses	677,160
PR	E2009-BUSP-795	San Juan, Puerto Rico Metropolitan Bus Authority	225,720
PR	E2009-BUSP-796	San Juan, Puerto Rico Metropolitan Bus Authority -- -bus security equipment	435,389
PR	E2009-BUSP-797	Trolley Purchase Las Marias	190,000
RI	E2009-BUSP-800	Rhode Island Statewide Bus Fleet	1,354,320
RI	E2009-BUSP-802	Senior Transportation	190,000
RI	E2009-BUSP-803	Statewide Bus Replacement	950,000
SC	E2009-BUSP-805	North Charleston Regional Intermodal Transportation Center	475,000
SC	E2009-BUSP-807	South Carolina Department of Transportation-Transit Facilities Construction Program	549,000
SC	E2009-BUSP-808	South Carolina Department of Transportation-Vehicle Acquisition Program	2,194,000
TN	E2009-BUSP-816	MTSU Intermodal Transportation HUB	380,000
TN	E2009-BUSP-819	Sevier County Tennessee-U.S. 441 bus rapid transit	56,430
TN	E2009-BUSP-820	Tennessee Department of Transportation-Statewide Tennessee Transit ITS and Bus Replacement Project	2,348,863
TN	E2009-BUSP-821	Townsend Great Smoky Mountain Heritage Bus Station	950,000
TN	E2009-BUSP-822	University of Memphis-Pedestrian Bridge	823,000
TX	E2009-BUSP-825	Advanced Transit Program/METRO Solutions Bus Expansion	475,000
TX	E2009-BUSP-834	Capital Metro Paratransit Vehicle Replacement	2,612,500
TX	E2009-BUSP-838	CNG Bus Replacement Fort Worth Transportation Authority	1,425,000
TX	E2009-BUSP-840	Construct West Houston and Fort Bend County, Texas-bus transit corridor	451,440
TX	E2009-BUSP-845	Design Downtown Carrollton Texas Regional Multi-Modal Transit Hub Station	451,440
TX	E2009-BUSP-846	El Paso Rural County Transit	712,500
TX	E2009-BUSP-847	Galveston, Texas-Intermodal center and parking facility, The Strand	1,015,740
TX	E2009-BUSP-849	Harris County-West Houston-Fort Bend Bus Transit Corridor: Uptown Westpark Terminal	274,000
TX	E2009-BUSP-850	Hill Country Transit Administration Facility San Saba	190,000
TX	E2009-BUSP-851	Internal Shuttle System Texas Medical Center	950,000
TX	E2009-BUSP-852	Laredo Bus Maintenance Facility and Refueling Depot	950,000
TX	E2009-BUSP-853	Laredo-North Laredo Transit Hub-Bus Maintenance Facility	823,000
TX	E2009-BUSP-854	Lufkin, VA Clinic Shuttle	285,000
TX	E2009-BUSP-855	Metro Intermodal Transit Garage Texas Medical Center	237,500
TX	E2009-BUSP-857	Paratransit Vehicle Replacement City of Abilene	456,000
TX	E2009-BUSP-858	Roma, TX Bus Facility	118,503
TX	E2009-BUSP-861	Sun Metro Fuel Facility Improvements El Paso	712,500
TX	E2009-BUSP-862	Texas Bus Acquisition City of El Paso	712,500
TX	E2009-BUSP-866	Zapata, Texas Purchase Bus vehicles	70,538
UT	E2009-BUSP-868	Cache Valley Transit District Hybrid Bus Fleet Expansion	475,000
VA	E2009-BUSP-872	Alexandria, VA Eisenhower Avenue Inter-modal Station improvements, including purchase of buses and construction of bus shelters	564,300
VA	E2009-BUSP-874	Arlington County, VA Columbia Pike Bus Improvements	790,020

FEDERAL TRANSIT ADMINISTRATION

TABLE 10

Prior Year Unobligated Section 5309 Bus and Bus Related Equipment and Facilities as of September 30, 2010

State	Earmark ID	Project Location and Description	Unobligated Allocation
VA	E2009-BUSP-875	Arlington County, VA Crystal City-Potomac Yard Busway, including construction of bus shelters	677,160
VA	E2009-BUSP-877	Bealeton Virginia-Intermodal Station Depot Refurbishment	62,073
VA	E2009-BUSP-878	Bus and Bus Facilities Danville	262,000
VA	E2009-BUSP-879	Bus and Bus Facilities Farmville	712,500
VA	E2009-BUSP-880	Bus and Bus Facilities Martinsville	712,500
VA	E2009-BUSP-881	City of Alexandria, VA-City-Wide Transit Improvements	274,000
VA	E2009-BUSP-884	City of Alexandria, VA-Valley Pedestrian & Transit	274,000
VA	E2009-BUSP-885	Commonwealth of Virginia-Statewide Bus Capital Program	1,231,764
VA	E2009-BUSP-899	Richmond, VA Renovation and construction for Main Street Station	248,292
VA	E2009-BUSP-902	Roanoke, Virginia-Intermodal Facility	45,144
VA	E2009-BUSP-903	Roanoke, Virginia-Roanoke Railway and Link Passenger facility	112,860
VT	E2009-BUSP-906	Addison County Transit Resources Facilities Buses and Equipment	2,850,000
VT	E2009-BUSP-908	State of Vermont Buses Facilities and Equipment	520,000
VT	E2009-BUSP-909	Statewide Buses Facilities and Equipment	475,000
WA	E2009-BUSP-911	Bus Rapid Transit Aurora Corridor Improvement Project (SR-99) Phase III	475,000
WA	E2009-BUSP-914	Downtown Tacoma Intermodal Center Tacoma	1,235,000
WA	E2009-BUSP-915	Enumclaw Welcome Center Intermodal Transit Facility	1,425,000
WA	E2009-BUSP-916	Everett Transit Vehicle Replacement	712,500
WA	E2009-BUSP-920	Intercity Transit Intermodal Facility Project	2,232,500
WA	E2009-BUSP-921	Island Transit WA Operations Base Facilities Project	541,728
WA	E2009-BUSP-922	King County Hybrid Bus Program	237,500
WA	E2009-BUSP-923	Mukilteo, WA Multi-Modal Terminal	1,309,176
WA	E2009-BUSP-928	Pierce Transit Peninsula Park and Ride	2,351,250
WA	E2009-BUSP-930	Seattle, WA Multimodal Terminal Redevelopment & Expansion	1,100,000
WA	E2009-BUSP-935	Washington Southworth Terminal Redevelopment	1,500,000
WA	E2009-BUSP-936	Washington King Street Transportation Center-Intercity Bus Terminal Component	70,000
WI	E2009-BUSP-942	State of Wisconsin buses and bus facilities	1,126,800
WI	E2009-BUSP-944	Wisconsin Statewide Buses and Bus Facilities	107,200
WV	E2009-BUSP-946	West Virginia Statewide Bus and Bus Facilities	2,679,294
WY	E2009-BUSP-947	Wyoming Department of Transportation-Wyoming Statewide Bus and Bus Related Facilities	823,000
		Subtotal FY 2009 Unobligated Allocations	**$261,087,787**
FY 2010 Unobligated Allocations			
AK	E2010-BUSP-001	Anchorage People Mover, AK	750,000
AL	E2010-BUSP-003	Buses and Bus Facility Improvement, Baldwin County, AL	275,000
AL	E2010-BUSP-004	Morgan County System of Services, transit vans for HANDS Home Shelter for Girls, AL	50,000
AL	E2010-BUSP-005	Senior Transportation Program, AL	2,000,000
AL	E2010-BUSP-006	U.S. Space and Rocket Center Transportation Request, Huntsville, AL	1,600,000
AR	E2010-BUSP-007	State of Arkansas--Bus and bus facilities, AR	1,300,000
AZ	E2010-BUSP-008	Loop 101--Scottsdale Road Park and Ride, Scottsdale, AZ	500,000
AZ	E2010-BUSP-009	Orbit Neighborhood Circulator, Tempe, AZ	500,000
AZ	E2010-BUSP-010	Scottsdale Intermodal Center, AZ	500,000
AZ	E2010-BUSP-011	Senior Center Buses, Guadalupe, AZ	150,000
CA	E2010-BUSP-012	Alternative Fuel SolanoExpress Bus Replacement, Solano, CA	500,000
CA	E2010-BUSP-014	Bob Hope Airport Regional Transportation Center, Burbank, CA	550,000
CA	E2010-BUSP-015	Brawley Transfer Terminal Transit Station, Brawley, CA	300,000
CA	E2010-BUSP-016	City of Bellflower bus shelters, CA	500,000
CA	E2010-BUSP-017	City of Corona Dial-A-Ride Bus Replacement, CA	208,000
CA	E2010-BUSP-018	City of Dinuba CNG Fueling Station Expansion, CA	779,200
CA	E2010-BUSP-019	City of Hawaiian Gardens bus shelters, CA	200,000
CA	E2010-BUSP-020	City of Imperial Downtown Transportation Park, CA	974,000
CA	E2010-BUSP-021	City of Whittier bus shelters, CA	450,000
CA	E2010-BUSP-022	Ed Roberts Campus bus and bus facilities, Berkley, CA	250,000
CA	E2010-BUSP-023	Los Angeles Central Avenue Streetscape bus shelters and lighting, CA	700,000
CA	E2010-BUSP-024	McBean Regional Transit Center Park & Ride Facility, CA	300,000
CA	E2010-BUSP-025	Monrovia Station Square Transit Village, CA	750,000
CA	E2010-BUSP-026	Municipal Transit Operators Coalition (MTOC) Bus/Bus Facility Improvement Project, CA	550,000
CA	E2010-BUSP-027	Norwalk/Santa Fe Springs Transportation Center Improvements, Santa Fe Springs, CA	500,000
CA	E2010-BUSP-028	Palmdale Transportation Center Train Platform Extension, Palmdale, CA	370,000
CA	E2010-BUSP-029	Regional Transportation Management System, San Diego, CA	800,000
CA	E2010-BUSP-032	San Jose High Volume Bus Stop Upgrades, Santa Clara County, CA	600,000
CA	E2010-BUSP-033	South Bay Regional Intermodal Transit Centers, CA	800,000
CA	E2010-BUSP-034	SunLine Transit Agency paratransit buses and commuter coaches, CA	750,000
CA	E2010-BUSP-035	Union City Intermodal Station, Phases 1C and 2, CA	500,000
CA	E2010-BUSP-036	Vacaville Intermodal Station--Phase 2, CA	500,000
CA	E2010-BUSP-037	VTA Renewable Energy Conversion Project, San Jose, CA	750,000
CO	E2010-BUSP-038	Colorado Transit Coalition Statewide Bus & Bus Facilities, CO	1,635,360
CT	E2010-BUSP-039	Bridgeport Intermodal Transportation Center, CT	2,435,000
CT	E2010-BUSP-040	Harbor Point Bus Expansion, CT	487,000

FEDERAL TRANSIT ADMINISTRATION

TABLE 10

Prior Year Unobligated Section 5309 Bus and Bus Related Equipment and Facilities as of September 30, 2010

State	Earmark ID	Project Location and Description	Unobligated Allocation
CT	E2010-BUSP-041	Thompsonville Intermodal Transportation Center, CT	974,000
CT	E2010-BUSP-042	Waterbury Intermodal Transportation Center, CT	500,000
DC	E2010-BUSP-043	Union Station Intermodal Transit Center, Washington, DC	500,000
DE	E2010-BUSP-044	40 Fixed Route Transit Buses, DE	974,000
FL	E2010-BUSP-046	Broward County Transit Infrastructure Improvements, FL	500,000
FL	E2010-BUSP-047	Bus Shelter Replacement, Bal Harbour, FL	250,000
FL	E2010-BUSP-048	City of Doral Transit Circulator Program, FL	350,000
FL	E2010-BUSP-049	City of Miramar Multi Service Center and Transit Hub, FL	500,000
FL	E2010-BUSP-050	Clearwater Downtown Intermodal Terminal, St. Petersburg, FL	1,250,000
FL	E2010-BUSP-051	HART Bus and Paratransit Acquisition, FL	500,000
FL	E2010-BUSP-052	Lakeland Area Mass Transit District Bus Replacement and Facility Maintenance, FL	200,000
FL	E2010-BUSP-053	LYNX Buses, Orlando, FL	1,500,000
FL	E2010-BUSP-054	Lynx's Central Station improvements, Orlando, FL	550,000
FL	E2010-BUSP-055	Palm Tran Park and Ride Facilities, FL	800,000
FL	E2010-BUSP-056	Regional Intermodal Terminal Center, JTA, Jacksonville, FL	400,000
FL	E2010-BUSP-058	St. Petersburg Central Avenue Bus Rapid Transit, FL	500,000
FL	E2010-BUSP-059	StarMetro Buses, Tallahassee, FL	1,000,000
FL	E2010-BUSP-060	Transit Facility and Bus Apron Access Construction along US 1, Key West, FL	1,000,000
FL	E2010-BUSP-061	Winter Haven/Polk County Buses, FL	200,000
GA	E2010-BUSP-062	Albany Heavy-Duty Buses, GA	500,000
GA	E2010-BUSP-063	Albany Transit Multimodal Transportation Center, GA	1,500,000
GA	E2010-BUSP-064	Chatham Area Transit Bus and Bus Facilities, Savannah, GA	2,525,000
GA	E2010-BUSP-065	MARTA Acquisition of Clean Fuel Buses, GA	4,000,000
IA	E2010-BUSP-068	Ames Transit Facility Expansion, IA	750,000
IA	E2010-BUSP-069	Coralville Intermodal Facility, Coralville, IA	750,000
IA	E2010-BUSP-072	Transit Maintenance Garage Initiative, IA	681,800
ID	E2010-BUSP-073	Idaho Transit Coalition Bus & Bus Facilities, ID	553,564
IL	E2010-BUSP-074	Illinois Downstate Bus & Bus Facilities, IL	3,896,000
IL	E2010-BUSP-077	Pace Chicago Paratransit Vehicles, IL	1,300,000
IL	E2010-BUSP-078	Pace Milwaukee Avenue Transit Infrastructure Enhancements, IL	400,000
IL	E2010-BUSP-080	Pace transit infrastructure for Randall Road, Kane County, IL	800,000
IL	E2010-BUSP-081	Stone Avenue Train Station, La Grange, IL	700,000
IN	E2010-BUSP-083	Electric Hybrid Bus Upgrade Grants, IN	2,400,000
IN	E2010-BUSP-085	IndyGo Bus Replacement, IN	300,000
IN	E2010-BUSP-086	Riehle Plaza Transportation Improvements for CityBus, Lafayette, IN	450,000
KS	E2010-BUSP-087	Bus and bus facilities, Kansas City, KS	600,000
KS	E2010-BUSP-088	Statewide (Rural and Urban) Bus & Bus Facilities, KS	2,000,000
KY	E2010-BUSP-089	Audubon Area Community Services, bus facility, Owensboro, KY	1,350,000
KY	E2010-BUSP-090	Frankfort Transit Bus Facilities, KY	275,000
KY	E2010-BUSP-091	Lake Cumberland Community Action Agency, bus equipment, KY	70,000
KY	E2010-BUSP-092	Pennyrile Allied Community Services, bus facilities, KY	500,000
KY	E2010-BUSP-093	Transit Authority of Northern Kentucky Bus Replacement Project, KY	1,850,000
KY	E2010-BUSP-094	Transit Facility for LKLP Community Action Council in West Liberty, KY	1,000,000
KY	E2010-BUSP-095	Western Kentucky University Shuttle Bus Improvement Project, KY	1,200,000
MA	E2010-BUSP-096	Cape Ann Transportation Authority (CATA) buses and fare boxes, MA	500,000
MA	E2010-BUSP-097	Cities of Salem and Beverly intermodal station improvements, MA	700,000
MA	E2010-BUSP-099	Newton Rapid Transit Handicap Accessibility, MA	1,000,000
MA	E2010-BUSP-100	Pioneer Valley Transit Authority Bus Replacement Program, Pioneer Valley Transit District, MA	750,000
MA	E2010-BUSP-101	Wonderland Intermodal Improvements, MA	750,000
ME	E2010-BUSP-103	Maine Statewide Bus and Bus Facilities	300,000
MI	E2010-BUSP-104	Allegan County Facility Improvement and Bus Replacement, MI	383,000
MI	E2010-BUSP-105	Barry County Transit, Vehicle Equipment Replacement and Building Repair, Hastings, MI	127,200
MI	E2010-BUSP-106	Benzie Transportation Authority Bus & Bus Facilities, Honor, MI	1,000,000
MI	E2010-BUSP-107	Big Rapids Dial-A-Ride--Replacement buses, MI	250,000
MI	E2010-BUSP-108	Cadillac/Wexford Transit Authority, replacement buses, Cadillac, MI	300,000
MI	E2010-BUSP-110	City of Belding Dial-A-Ride, Bus Facilities Replacement Equipment, MI	63,000
MI	E2010-BUSP-111	City of Ionia, Dial-A-Ride Facility Improvements, MI	100,000
MI	E2010-BUSP-113	Eaton County Transportation Authority bus and bus facilities, Eaton County, MI	1,000,000
MI	E2010-BUSP-114	Midland County Connection--Bus Replacement, MI	203,000
MI	E2010-BUSP-115	Roscommon County Transportation Authority--Replacement buses, MI	700,000
MI	E2010-BUSP-117	SMART Alternative Fuel Vehicles, MI	1,500,000
MI	E2010-BUSP-119	Troy/Birmingham Multi-Modal Transit Center, MI	1,300,000
MN	E2010-BUSP-120	Cedar Avenue Bus Rapid Transit, Phase I, Dakota County, MN	681,800
MN	E2010-BUSP-122	Northstar Phase II Commuter Buses, MN	97,400
MO	E2010-BUSP-123	KCATA Bus Replacement, MO	1,950,000
MO	E2010-BUSP-124	Metro St. Louis--Downtown Transfer Center, MO	1,150,000
MO	E2010-BUSP-125	Statewide Bus & Bus Facilities, MO	2,000,000
MS	E2010-BUSP-127	Harrison County Multimodal, MS	2,000,000
MS	E2010-BUSP-128	JATRAN Fleet Replacement, MS	500,000
MT	E2010-BUSP-129	Great Falls Transit District Bus Replacements, MT	974,000

FEDERAL TRANSIT ADMINISTRATION

TABLE 10

Prior Year Unobligated Section 5309 Bus and Bus Related Equipment and Facilities as of September 30, 2010

State	Earmark ID	Project Location and Description	Unobligated Allocation
ND	E2010-BUSP-132	North Dakota Statewide Transit, ND	1,461,000
NJ	E2010-BUSP-133	Newark Penn Station Intermodal Improvements, NJ	1,948,000
NJ	E2010-BUSP-134	Northern New Jersey Intermodal Improvements	2,550,000
NJ	E2010-BUSP-135	Passaic/Bergen County Intermodal Facilities, NJ	800,000
NM	E2010-BUSP-137	Hobbs Transit Intermodal Facility, Hobbs, NM	900,000
NM	E2010-BUSP-138	Statewide Bus & Bus Facilities for Commuter Choice, NM	1,948,000
NV	E2010-BUSP-140	Washoe County Bus & Bus Facilities, NV	615,250
NY	E2010-BUSP-141	Arverne East Transit Plaza, Queens, NY	500,000
NY	E2010-BUSP-142	CAD/AVL Bus Communications System for Livingston Area Transp. Service, Livingston County	700,000
NY	E2010-BUSP-143	Chemung County Transit Intelligent Transportation System, NY	500,000
NY	E2010-BUSP-144	Clean-fueled technology buses, Onondaga County, NY	300,000
NY	E2010-BUSP-145	Green Vehicle Depot, North Hempstead, NY	600,000
NY	E2010-BUSP-146	Jamaica Intermodal Station Plaza, NY	584,400
NY	E2010-BUSP-148	Mt. Hope Station Transit Center, NY	800,000
NY	E2010-BUSP-149	Multi-Modal Parking Hub, Glen Cove, NY	500,000
NY	E2010-BUSP-150	Ramapo Friends Helping Friends Medical Vans, NY	135,000
NY	E2010-BUSP-151	Suffolk County bus and bus facilities, NY	600,000
OH	E2010-BUSP-153	Multimodal University Hub, Cincinnati, OH	1,000,000
OH	E2010-BUSP-154	Ohio Clean & Green Statewide Bus Replacement Program, OH	692,200
OH	E2010-BUSP-155	Reconstruction of the University Circle Rapid Station, OH	2,000,000
OH	E2010-BUSP-156	Southwest Ohio Regional Transit Authority hybrid bus replacement, OH	400,000
OH	E2010-BUSP-157	TARTA Bus and Bus Facilities, OH	1,000,000
OK	E2010-BUSP-158	Bus Facility Renovation, Oklahoma City, OK	1,000,000
OK	E2010-BUSP-159	Metropolitan Tulsa Transit Authority, bus purchase, Tulsa, OK	750,000
OK	E2010-BUSP-160	Transit Capitol Requests, Oklahoma City, OK	769,318
OR	E2010-BUSP-161	Columbia County Multi-Modal Transit Facility, OR	800,000
OR	E2010-BUSP-162	Corvallis Transit Bus Purchase, OR	600,000
OR	E2010-BUSP-163	Silverton Senior and Disabled Transportation Service, OR	38,404
PA	E2010-BUSP-167	Centre Area Transportation Authority CNG Articulated Transit Buses, PA	300,000
PA	E2010-BUSP-168	Erie Mass Transit Authority consolidation and transit facility, PA	1,400,000
PA	E2010-BUSP-169	Harrisburg Transportation Center train shed rehabilitation phase II improvements, PA	400,000
PA	E2010-BUSP-170	Intermodal Transit Facility/East Chestnut Street Garage, Washington County, PA	625,000
PA	E2010-BUSP-171	Purchase Hybrid Buses, Lehigh and Northampton Transportation Authority (LANTA), PA	615,250
PA	E2010-BUSP-172	Rabbittransit Bus Facility, PA	250,000
PA	E2010-BUSP-173	Union Station Intermodal, Pottsville, PA	400,000
PA	E2010-BUSP-174	Wilkes-Barre Intermodal Transportation Center, PA	600,000
PR	E2010-BUSP-175	Veterans Home Handicapped-Accessible Bus and Handicapped-Accessible Van, Juana Diaz, PR	130,000
RI	E2010-BUSP-176	Rhode Island Senior Transportation buses, RI	300,000
RI	E2010-BUSP-177	Statewide Bus Replacement, RI	487,000
SC	E2010-BUSP-178	Commuter Bus Replacement, Charleston, SC	1,000,000
SD	E2010-BUSP-179	Statewide Bus & Bus Facilities, SD	487,000
TN	E2010-BUSP-180	Knoxville-Knox County CAC Transportation, TN	500,000
TN	E2010-BUSP-181	Tennessee Public Transit Administration Rural Transportation Project	800,000
TN	E2010-BUSP-182	Tennessee Statewide Bus Program, TN	6,625,000
TX	E2010-BUSP-183	Abilene Paratransit buses, TX	200,000
TX	E2010-BUSP-186	Bus Acquisition--Sun Metro, El Paso, TX	1,000,000
TX	E2010-BUSP-187	Capital Metro--Bus & Bus Facilities, Austin, TX	2,000,000
TX	E2010-BUSP-188	City of Lubbock/Citibus, bus purchases, TX	750,000
TX	E2010-BUSP-189	City of Roma Bus Terminal, TX	300,000
TX	E2010-BUSP-190	Clean Fuel Downtown Transit Circulator, Houston, TX	800,000
TX	E2010-BUSP-191	CNG Bus Replacement, The Fort Worth `T' Transportation Authority, Fort Worth, TX	885,400
TX	E2010-BUSP-192	Concho Valley Multi-modal Terminal, TX	250,000
TX	E2010-BUSP-193	Corpus Christi Regional Intermodal Transit Facility, Robstown, TX	500,000
TX	E2010-BUSP-195	League City Park and Ride Facilities, TX	750,000
TX	E2010-BUSP-196	Lufkin Veterans Clinic Shuttle capital cost of contracting, TX	300,000
TX	E2010-BUSP-198	VIA Metropolitan Transit BRT improvements, San Antonio, TX	500,000
TX	E2010-BUSP-199	VIA Metropolitan Transit Bus Maintenance Facility Improvements, San Antonio, TX	300,000
TX	E2010-BUSP-200	VIA Metropolitan Transit Bus US 281/Loop 1604 Area Park & Ride, San Antonio, TX	750,000
VA	E2010-BUSP-202	GRTC Down Multimodal Center, Richmond, VA	450,000
VA	E2010-BUSP-203	Hampton Roads Transit Bus Acquisition, Hampton, VA	1,450,000
VA	E2010-BUSP-204	Potomac and Rappahannock Transportation Commission Western Maintenance Facility, VA	1,000,000
VI	E2010-BUSP-206	Virgin Islands, Bus and Bus Facilities, VI	200,000
VT	E2010-BUSP-207	Chittenden County Transportation Authority Buses, Equipment, and Facilities, Including Downtown Burlington Transit Center Design, VT	1,948,000
VT	E2010-BUSP-208	Deerfield Valley Transit Association Facilities, Buses, and Equipment, VT	584,400
VT	E2010-BUSP-209	Marble Valley Regional Transit District Buses, Facilities, and Equipment, VT	1,461,000
WA	E2010-BUSP-210	Chuckanut Park and Ride Facility, Skagit County, WA	400,000
WA	E2010-BUSP-211	C-Tran Transit Vehicle Replacement, WA	1,850,600
WA	E2010-BUSP-212	Intercity Transit Vehicle Acquisition, WA	1,735,200
WA	E2010-BUSP-215	Pierce Transit Diesel-Electric Bus Acquisition, WA	1,272,700

FEDERAL TRANSIT ADMINISTRATION

TABLE 10

Prior Year Unobligated Section 5309 Bus and Bus Related Equipment and Facilities as of September 30, 2010

State	Earmark ID	Project Location and Description		Unobligated Allocation
WA	E2010-BUSP-216	Port Angeles Gateway International Multi-modal Transportation Center, WA		550,000
WA	E2010-BUSP-217	Spokane Transit Diesel-Electric Hybrid Bus Acquisition, WA		1,266,200
WA	E2010-BUSP-218	Tacoma Intermodal Transit Center, WA		974,000
WA	E2010-BUSP-219	West Seattle RapidRide and Hybrid Bus Program, Seattle, WA		600,000
WA	E2010-BUSP-220	Whatcom Transportation Authority Fleet Replacement Project, WA		974,000
WI	E2010-BUSP-221	Beloit Transit System bus and bus facilities, Beloit, WI		150,000
WI	E2010-BUSP-222	Fond du Lac Area Transit bus and bus facilities, WI		308,000
WI	E2010-BUSP-223	Green Bay Metro Transit bus and bus facilities, Green Bay, WI		1,100,000
WI	E2010-BUSP-224	Madison Metro Transit bus and bus facilities, Madison, WI		150,000
WI	E2010-BUSP-225	Milwaukee County Buses, WI		500,000
WI	E2010-BUSP-226	Wisconsin Bus Capital on Behalf of Transit Agencies Statewide, WI		3,409,000
WV	E2010-BUSP-227	Colonial Intermodal Facility, Bluefield, WV		600,000
			Subtotal	**159,471,646**
		Ferry Boat Systems Projects		
CA	E2010-BUSP-228	Berkeley/Albany to San Francisco Ferry Service		1,000,000
FL	E2010-BUSP-229	Mayport Ferry Rehabilitation, Jacksonville		500,000
NJ	E2010-BUSP-230	Long Branch Pier and Ferry Terminal		300,000
NY	E2010-BUSP-231	Glen Cove Ferry Terminal		1,000,000
NY	E2010-BUSP-232	Ocean Beach Ferry Terminal Enhancement		600,000
NY	E2010-BUSP-233	Reconstruction of the Bayshore Ferry Terminal Bulkhead, Saltaire		250,000
OH	E2010-BUSP-234	Ashtabula City Port Authority		500,000
VI	E2010-BUSP-235	Refurbished Passenger Ferry		200,000
WA	E2010-BUSP-236	New Vessel Program--Propulsion System Acquisition		2,922,000
			Subtotal	**7,272,000**
		Other Projects		
----	E2010-BUSP-237	Fuel Cell Bus Program		13,500,000
PA	E2010-BUSP-238	Bus Testing		3,000,000
			Subtotal	**16,500,000**
			Subtotal FY 2010 Unobligated Allocations	**$183,243,646**
			Total FY 2009 and 2010 Unobligated Allocations	**$434,331,433**

[FR Doc. 2011–3293 Filed 2–14–11; 8:45 am]
BILLING CODE C

DEPARTMENT OF THE TREASURY

Departmental Offices; Privacy Act of 1974, as Amended

AGENCY: Departmental Offices, Treasury.
ACTION: Notice of Proposed Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Departmental Offices, U.S. Department of the Treasury ("Treasury") gives notice of the establishment of a Privacy Act System of Records.

DATES: Comments must be received no later than March 17, 2011. The new system of records will be effective March 17, 2011 unless the comments received result in a contrary determination.

ADDRESSES: Comments should be sent to Claire Stapleton, Consumer Financial Protection Bureau Implementation Team, 1801 L Street, NW., Washington, DC 20036. Comments will be made available for inspection upon written request. Treasury will make such comments available for public inspection and copying in Treasury's Library, Room 1428, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect comments by telephoning (202) 622–0990. All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Claire Stapleton, Consumer Financial Protection Bureau Implementation Team, 1801 L. Street, NW., Washington, DC 20036, (202) 435–7220.

SUPPLEMENTARY INFORMATION: The Dodd-Frank Wall Street Reform and Consumer Protection Act ("Act"), Public Law 111–203, Title X, established the Consumer Financial Protection Bureau ("CFPB"). Once fully operational, CFPB will administer, enforce and implement Federal consumer financial protection laws, and, among other powers, will have authority to protect consumers from unfair, deceptive, and abusive practices when obtaining consumer financial products or services. The Act grants Treasury certain "interim authority" to help stand up the agency. The CFPB Implementation Team, currently within Treasury, will maintain the records covered by this notice.

The new system of records described in this notice, Treasury/DO .316—CFPB Implementation Team Benefits and Retirement Systems, will be used to administer the benefits and retirement programs for CFPB Implementation Team employees and assist in personnel management. A description of the new system of records follows this Notice.

The report of a new system of records has been submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated November 30, 2000, and the Privacy Act, 5 U.S.C. 552a(r).

The system of records entitled, "Treasury/DO.316—CFPB Implementation Team Benefits and Retirement Systems" is published in its entirely below.

Dated: January 28, 2011.

Melissa Hartman,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

TREASURY/DO .316

SYSTEM NAME:

CFPB Implementation Team Benefits and Retirement Systems.

SYSTEM LOCATION:

Consumer Financial Protection Bureau Implementation Team, 1801 L Street, NW., Washington, DC 20036.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former CFPB Implementation Team employees and their named dependents and/or beneficiaries and individuals who have been extended offers of employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system may contain forms or memoranda relating to employees' retirement and benefits programs, and records relating to claims filed for benefits. These programs may include without limitation: health insurance plans, dental insurance plans, vision insurance plans, life insurance plans, wellness plans, travel insurance plans, disability coverage, long term care insurance, accident insurance, flexible spending accounts, premium conversion accounts, public transportation and parking subsidies, employee assistance programs, dependent care referral services, relocation programs, thrift plans, and retirement plans. These records may also include identifiable information regarding both the employee and the employee's named dependents and beneficiaries, including without limitation: name, social security number, account numbers, address, phone number, e-mail address, and date of birth.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 111–203, Title X, Section 1066, codified at 12 U.S.C. 5586.

PURPOSE(S):

The information in the system is being collected to enable the CFPB Implementation Team to administer retirement and benefits programs to employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed to:

(1) Other Federal agencies involved in administration of employee retirement and benefits programs and such agencies' contractors or plan administrators, when necessary to determine employee eligibility to participate in retirement and benefits programs, process employee participation in those programs, process claims with respect to individual employee participation in those programs, audit benefits paid under those programs, or perform any other administrative function in connection with those programs or Federal agencies that perform payroll and personnel processing and employee retirement and benefits plan services under interagency agreements or contracts, including the issuance of paychecks to employees, the distribution of wages, the administration of deductions from paychecks for retirement and benefits programs, and the distribution and receipt of those deductions. These agencies include, without limitation, the Department of Labor, the Department of Veterans Affairs, the Social Security Administration, the Federal Retirement Thrift Investment Board, the Department of Defense, the Office of Personnel Management, the Board of Governors of the Federal Reserve System, the Department of the Treasury, and the National Finance Center at the U.S. Department of Agriculture;

(2) National, State or local income security and retirement agencies or entities involved in administration of employee retirement and benefits programs (*e.g.,* State unemployment compensation agencies and State

pension plans) and any of such agencies' contractors or plan administrators, when necessary to determine employee eligibility to participate in retirement or employee benefits programs, process employee participation in those programs, process claims with respect to individual employee participation in those programs, audit benefits paid under those programs, or perform any other administrative function in connection with those programs;

(3) Carriers and providers of retirement and benefits plans (including, without limitation, the carriers participating in the Federal Employees Health Benefits ("FEBHB") Program and the Federal Employees Group Life Insurance ("FEGLI") Program) when necessary to determine employee eligibility to enroll in such plans, process employee enrollment in such plans, process claims and payments under such plans, and perform any other administrative function in connection with such plans;

(4) An executor of the estate of a current or former employee, a government entity probating the will of a current or former employee, a designated beneficiary of a current or former employee, or any person who is responsible for the care of a current or former employee, where the employee has died, has been declared mentally incompetent, or is under other legal disability, to the extent necessary to assist that person in obtaining any employment benefit or working condition for the employee.

(5) A Federal agency in the executive, legislative or judicial branch of government in connection with the following activities involving a current or former employee: hiring, issuing a security clearance, conducting a security or suitability investigation of an individual, classifying jobs, letting of a contract, issuing licenses, grants, or other benefits by the requesting agency, or a lawful statutory, administrative, or investigative purpose of the agency to the extent that the information is relevant and necessary to the requesting agency's decision;

(6) Appropriate law enforcement agencies or authorities in connection with the investigation and/or prosecution of alleged civil, criminal, and administrative violations;

(7) Congressional offices in response to an inquiry made at the request of the individual to whom the record pertains;

(8) The U.S. Department of Justice ("DOJ") for its use in providing legal advice to the Treasury or in representing the Treasury in a proceeding before a court, adjudicative body, or other administrative body before which the Treasury is authorized to appear, where the use of such information by the DOJ is deemed by the Treasury to be relevant and necessary to the litigation, and such proceeding names as a party or interests:

(a) The Treasury or any component thereof;

(b) Any employee of the Treasury in his or her official capacity;

(c) Any employee of the Treasury in his or her individual capacity where DOJ has agreed to represent the employee; or

(d) The United States, where the Treasury determines that litigation is likely to affect the Treasury or any of its components.

(9) The National Archives and Records Administration for use in records management inspections;

(10) A contractor or agent who needs to have access to this system of records to perform an assigned activity;

(11) Appropriate agencies, entities, and persons when (a) the Treasury suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Treasury has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Treasury or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Treasury's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(12) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations;

(13) The Equal Employment Opportunity Commission when requested in connection with investigations or other functions vested in the Commission;

(14) The Merit Systems Protection Board in connection with appeals filed by employees;

(15) A contractor or other entity for the purpose of conducting personnel research or surveys and producing summary descriptive statistics and analytical studies to support the function for which the records are collected and maintained, or for related work force studies. Published statistics and studies will not contain individual identifiers;

(16) Another Federal agency to (a) permit a decision as to access, amendment or correction of records to be made in consultation with or by that agency, or (b) verify the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment or correction of records;

(17) The Internal Revenue Service and other jurisdictions which are authorized to tax employees' compensation with wage and tax information in accordance with a withholding agreement with the Treasury pursuant to 5 U.S.C. 5516, 5517, and 5520, for the purpose of furnishing employees with IRS Form W–2 that report such tax distributions; and

(18) Unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPENSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records maintained in this system are stored electronically and in file folders. Paper copies of individual records are made by the authorized CFPB Implementation Team staff.

RETRIEVABILITY:

Records are retrievable by a variety of fields including, without limitation, the individual's name, social security number, address, account number, transaction number, phone number, date of birth, or by some combination thereof.

SAFEGUARDS:

Access to electronic records is restricted to authorized personnel who have been issued non-transferrable access codes and passwords. Other records are maintained in locked file cabinets or rooms with access limited to those personnel whose official duties require access.

RETENTION AND DISPOSAL:

Computer and paper records will be maintained indefinitely until a records disposition schedule is approved by the National Archives Records Administration.

System manager(s) and address:

Consumer Financial Protection Bureau Implementation Team, 1801 L Street, NW., Washington, DC 20036.

NOTIFICATION PROCEDURE:

Individuals seeking notification and access to any record contained in this

system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. Address such requests to: Director, Disclosure Services Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Ave., NW., Washington, DC 20220.

RECORD ACCESS PROCEDURES:

See "Notification Procedures" above.

CONTESTING RECORD PROCEDURES:

See "Notification Procedures" above.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from individuals and entities associated with retirement and benefits administration.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2011–3279 Filed 2–14–11; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8940

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8940, Request for Miscellaneous Determination.

DATES: Written comments should be received on or before April 18, 2011 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Request for Miscellaneous Determination.

OMB Number: 1545–XXXX.

Form Number: 8940.

Abstract: Form 8940 will standardize information collection procedures for 9 categories of individually written requests for miscellaneous determinations now submitted to the Service by requestor letter. Respondents are exempt organizations.

Current Actions: New collection.

Type of Review: New collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 2,100.

Estimated Time per Respondent: 13 hrs., 47 mins.

Estimated Total Annual Burden Hours: 28,959.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 31, 2011.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2011–3294 Filed 2–14–11; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0613]

Agency Information Collection (Recordkeeping at Flight Schools) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 17, 2011.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0613" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 461–0966 or e-mail *denise.mclamb@va.gov.* Please refer to "OMB Control No. 2900–0613."

SUPPLEMENTARY INFORMATION:

Title: Recordkeeping at Flight Schools (38 U.S.C. 21.4263(h)(3)).

OMB Control Number: 2900–0613.

Type of Review: Extension of a currently approved collection.

Abstract: Flight schools are required to maintain records on students to support continued approval of their courses. VA uses the data collected to determine whether the courses and students meet the requirements for flight training benefits and to properly pay students.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on November 29, 2010, at page 73167.

Affected Public: Business or other for-profit and Not-for-profit institutions.

Estimated Annual Burden: 274 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 394.

Estimated Annual Responses: 821.

Dated: February 10, 2011.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2011–3339 Filed 2–14–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0711]

Proposed Information Collection (VBA Loan Guaranty Service Lender Satisfaction Survey) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine lenders satisfaction with VA Loan Guaranty Service.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 18, 2011.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *http://www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov.* Please refer to "OMB Control No. 2900–0711" in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or Fax (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden 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 through the use of automated collection techniques or the use of other forms of information technology.

Title: Veterans Benefits Administration (VBA) Loan Guaranty Service Lender Satisfaction Survey.

OMB Control Number: 2900–0711.

Type of Review: Revision of a currently approved collection.

Abstract: The survey will be used to gather information from lenders about VA Loan Guaranty Program. The information collected will allow the VA to determine lenders satisfaction with the VA's processes and to make improvements to the program to better serve the needs of eligible veterans.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 69 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 786.

Dated: February 10, 2011.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2011–3340 Filed 2–14–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New (DBQs—Group 1)]

Proposed Information Collection (Disability Benefits Questionnaires—Group 1) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to obtain medical evidence to adjudicate a claim for disability benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 18, 2011.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *http://www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov*. Please refer to "OMB Control No. 2900–New (DBQs—Group 1)" in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility;

(2) the accuracy of VBA's estimate of the burden 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 through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Hematologic and Lymphatic Conditions, Including Leukemia Disability Benefits Questionnaire, VA Form 21–0960B–2.

b. Amyotrophic Lateral Sclerosis (Lou Gehrig's Disease) Disability Benefits Questionnaire, VA Form 21–0960C–2.

c. Peripheral Nerve Conditions (Not Including Diabetic Sensory-Motor Peripheral Neuropathy) Disability Benefits Questionnaire, VA Form 21–0960C–10.

d. Persian Gulf and Afghanistan Infectious Diseases Disability Benefits Questionnaire, VA Form 21–0960I–1.

e. Tuberculosis Disability Benefits Questionnaire, VA Form 21–0960I–6.

f. Kidney Conditions (Nephrology) Disability Benefits Questionnaire, VA Form 21–0960J–1.

g. Male Reproductive Organ Conditions Disability Benefits Questionnaire, VA Form 21–0960J–2.

h. Prostate Cancer Disability Benefits Questionnaire, VA Form 21–0960J–3.

i. Neck (Cervical Spine) Disability Benefits Questionnaire, VA Form 21–0960M–13.

j. Back (Thoracolumbar Spine) Conditions Disability Benefits Questionnaire, VA Form 21–0960M–14.

k. Tumors and Neoplasms (Except Prostate Cancer and Leukemias) Disability Benefits Questionnaire, VA Form 21–0960O–1.

l. Eating Disorders Disability Benefits Questionnaire, VA Form 21–0960P–1.

m. Mental Disorders (other than PTSD and Eating Disorders) Disability Benefits Questionnaire, VA Form 21–0960P–2.

n. Review Post Traumatic Stress Disorder (PTSD) Disability Benefits Questionnaire, VA Form 21–0960P–3.

OMB Control Number: 2900–New (DBQs—Group 1).

Type of Review: New collection.

Abstract: Data collected on VA Form 21–0960 series will be used obtain information from claimants treating physician that is necessary to adjudicate a claim for disability benefits.

Affected Public: Individuals or households.

Estimated Annual Burden:

a. VA Form 21–0960B–2—2,500.
b. VA Form 21–0960C–2—1,000.
c. VA Form 21–0960C–10—41,250.
d. VA Form 21–0960I–1—12,500.
e. VA Form 21–0960I–6—2,500.
f. VA Form 21–0960J–1—12,500.
g. VA Form 21–0960J–2—6,250.
h. VA Form 21–0960J–3—6,250.
i. VA Form 21–0960M–13—37,500.
j. VA Form 21–0960M–14—37,500.
k. VA Form 21–0960O–1—6,250.
l. VA Form 21–0960P–1—1,250.
m. VA Form 21–0960P–2—25,000.
n. VA Form 21–0960P–3—27,500.

Estimated Average Burden per Respondent:

a. VA Form 21–0960B–2—15 minutes.
b. VA Form 21–0960C–2—30 minutes.
c. VA Form 21–0960C–10—45 minutes.
d. VA Form 21–0960I–1—15 minutes.
e. VA Form 21–0960I–6—30 minutes.
f. VA Form 21–0960J–1—30 minutes.
g. VA Form 21–0960J–2—15 minutes.
h. VA Form 21–0960J–3—15 minutes.
i. VA Form 21–0960M–13—45 minutes.
j. VA Form 21–0960M–14—45 minutes.
k. VA Form 21–0960O–1—15 minutes.
l. VA Form 21–0960P–1—15 minutes.
m. VA Form 21–0960P–2—30 minutes.
n. VA Form 21–0960P–3—30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. VA Form 21–0960B–2—10,000.
b. VA Form 21–0960C–2—2,000.
c. VA Form 21–0960C–10—55,000.
d. VA Form 21–0960I–1—50,000.
e. VA Form 21–0960I–6—5,000.
f. VA Form 21–0960J–1—25,000.
g. VA Form 21–0960J–2—25,000.
h. VA Form 21–0960J–3—25,000.
i. VA Form 21–0960M–13—50,000.
j. VA Form 21–0960M–14—50,000.
k. VA Form 21–0960O–1—25,000.
l. VA Form 21–0960P–1—5,000.
m. VA Form 21–0960P–2—50,000.
n. VA Form 21–0960P–3—55,000.

Dated: February 10, 2011.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2011–3341 Filed 2–14–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0658]

Proposed Information Collection (Lenders Staff Appraisal Reviewer (SAR) Application) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments information needed to certify a lender's nominee as a VA Staff Appraisal Reviewer.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 18, 2011.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *http://www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov.* Please refer to "OMB Control No. 2900–0658)" in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden 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 through the use of automated collection techniques or the use of other forms of information technology.

Title: Lenders Staff Appraisal Reviewer (SAR) Application, VA Form 26–0785.

OMB Control Number: 2900–0658.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–0785 is completed by lenders to nominate employees for approval as approved Staff Appraisal Reviewer (SAR). Once approved, SAR's will have the authority to review real estate appraisals and to issue notices of values on behalf of VA. VA uses the information colleted to perform oversight of work delegated to lenders responsible for making guaranteed VA backed loans.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 83 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,000.

Dated: February 10, 2011.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2011–3342 Filed 2–14–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0047]

Proposed Information Collection (Financial Statement); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine veteran-obligors' and prospective assumers' creditworthiness.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 18, 2011.

ADDRESSES: Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *nancy.kessinger@va.gov*. Please refer to "OMB Control No. 2900–0047" in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501—3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden 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 through the use of automated collection techniques or the use of other forms of information technology.

Title: Financial Statement, VA Form 26–6807.

OMB Control Number: 2900–0047.

Type of Review: Extension of a currently approved collection.

Abstract: The data collected on VA Form 26–6807 is use to determine release of liability and substitution of entitlement cases. VA may release original veteran obligors from personal liability arising from the original guaranty of their home loan, or the making of a direct loan, provided the purchasers/assumers meet the creditworthiness requirements. The data is also used to determine a borrower's financial condition in connection with efforts to reinstate a seriously defaulted guaranteed, insured, or portfolio loan, and to determine homeowners eligibility for aid under the Homeowners Assistance Program, which provides assistance by reducing losses incident to the disposal of homes when military installations at which the homeowners were employed or serving are ordered closed.

Affected Public: Individuals or households.

Estimated Annual Burden: 4,500 hours.

Estimated Average Burden per Respondent: 45 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 6,000.

Dated: February 10, 2011.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2011–3343 Filed 2–14–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Disciplinary Appeals Board Panel

AGENCY: Department of Veterans Affairs.

ACTION: Notice with request for comments.

SUMMARY: Section 203 of the Department of Veterans Affairs Health Care Personnel Act of 1991 (Pub. L. 102–40), dated May 7, 1991, revised the disciplinary grievance and appeal procedures for employees appointed under 38 U.S.C. 7401(1). It also required the periodic designation of employees of the Department who are qualified to serve on Disciplinary Appeals Boards. These employees constitute the Disciplinary Appeals Board Panel from which Board members in a case are appointed. This notice announces that the roster of employees on the Panel is available for review and comment. Employees, employee organizations, and other interested parties shall be provided, without charge, a list of the names of employees on the Panel upon request and may submit comments concerning the suitability for service on the Panel of any employee whose name is on the list.

DATES: Names that appear on the Panel may be selected to serve on a Board or as a grievance examiner after March 17, 2011.

ADDRESSES: Requests for the list of names of employees on the Panel and written comments may be directed to: Secretary of Veterans Affairs (051), Department of Veterans Affairs, 810 Vermont Avenue, NW., Mailstop 051, Washington, DC 20420. Requests and comments may also be faxed to (202) 772–3315.

FOR FURTHER INFORMATION CONTACT: Latoya Smith, Employee Relations and

Performance Management Service, Office of Human Resources Management, Department of Veterans Affairs, 810 Vermont Avenue, NW., Mailstop 051, Washington, DC 20420. Ms. Smith may be reached at (202) 772–1889.

SUPPLEMENTARY INFORMATION: Public Law 102–40 requires that the availability of the roster be posted in the **Federal Register** periodically, and not less than annually.

Dated: February 7, 2011.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

[FR Doc. 2011–3344 Filed 2–14–11; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 76 Tuesday,
No. 31 February 15, 2011

Part II

Department of Housing and Urban Development

24 CFR Part 3282
Manufactured Housing: Notification, Correction, and Procedural Regulations; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 3282

[Docket No. FR–5238–P–01]

RIN 2502–AI84

Manufactured Housing: Notification, Correction, and Procedural Regulations

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

ACTION: Proposed rule.

SUMMARY: HUD is proposing to revise its regulations that implement statutory requirements concerning how manufacturers and others address reports of problems with manufactured homes. These "Subpart I" regulations establish a system of protections with respect to imminent safety hazards and violations of the Federal construction and safety standards, assuring a minimum of formality and delay, while protecting the rights of all parties. The regulations implement requirements established by Congress in the National Manufactured Housing Construction and Safety Standards Act of 1974. Manufacturers, retailers, and distributors, State Administrative Agencies, primary inspection agencies, and the Secretary would follow the procedures set out in Subpart I to assure that notification and correction are provided with respect to manufactured homes, when required. These remedial actions are not required, however, for failures that occur in any manufactured home or component as the result of normal wear and aging, unforeseeable consumer abuse, or unreasonable neglect of maintenance.

DATES: *Comment Due Date:* April 18, 2011.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, 451 7th Street, SW., Room 10276, Department of Housing and Urban Development, Washington, DC 20410–0500. All submissions must refer to the above docket number and title. There are two methods for submitting public comments.

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 7th Street, SW., Room 10276, Washington, DC 20410–0500.

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.

Facsimile (FAX) comments are not acceptable. In all cases, communications must refer to the above docket number and title. All comments and communications submitted will be available, without charge, 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, please schedule an appointment to review the public comments by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Copies of the public comments are also available for inspection and downloading at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Office of Manufactured Housing Programs, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9164, Washington, DC 20410; telephone number 202–708–6401 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: This proposed revision of Subpart I is based on a previous revision developed and submitted by the Manufactured Housing Consensus Committee (MHCC) for the Secretary's consideration. HUD agreed with most, but not all, of that revision. These changes are discussed in the "Supplementary Information" section of this document. For the convenience of commenters on today's proposed rule, HUD will provide page numbers to the location of the MHCC's recommendation within the **Federal Register**, to facilitate comparison.

I. Background

Since 1976, a major component of HUD's manufactured housing regulations has been the procedural and enforcement provisions in 24 CFR part 3282, subpart I ("Subpart I"). These provisions establish the system for manufacturers and retailers to assure that factory-built homes sold to consumers after having been manufactured pursuant to a federal building code provide at least the protections that are built into the construction and safety standards in that building code. Because the federal building code preempts a multiplicity of state and local building codes that would otherwise apply to the construction of such homes, manufacturers, distributors, retailers, and regulators are charged with particular responsibilities designed to protect both the purchasers of these homes and the general public. The regulations in Subpart I seek to balance the interests of all persons who have a stake in the future of quality, affordable manufactured housing.

As the manufactured housing industry has evolved from largely single-section homes to today's multiple-section homes that can be creatively and aesthetically configured and finished while maintaining the important affordable character of the homes, various parties have identified a need to refine the regulations in Subpart I. The Manufactured Housing Consensus Committee (MHCC) has made refinement of these regulations a priority, and HUD has worked with the MHCC to redraft Subpart I in a way that would address issues identified by regulated entities, State and Federal regulators, and consumers.

The MHCC was established by amendments made in December 2000 to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401–5426 (the Act), in large part for the purpose of providing periodic recommendations to the Secretary to adopt, revise, and interpret the Federal manufactured housing construction and safety standards and the procedural and enforcement regulations. (See 42 U.S.C. 5403(a)(3)(A).) The 22-member Federal Advisory Committee includes seven voting members in each of three categories, plus a nonvoting representative of the Secretary. The three categories, as established in the Act, are: (1) Producers; (2) Users; and (3) General Interest and Public Officials.

The MHCC has twice recommended specific revisions of Subpart I to the Secretary. To be promulgated under the Secretary's authority, however, the recommended revisions must be consistent with the Act. In both cases, HUD concluded that the MHCC recommendations were not consistent with the statutory requirements and the

Secretary's authority. (*See* 68 FR 47881 (August 12, 2003, amending 68 FR 35850, July 25, 2003) and 71 FR 34464 (June 14, 2006) ("June 14 notice").)

The June 14, 2006, notice included the complete text of the most recent MHCC recommendation. This second set of recommendations by the MHCC was developed through much more extensive discussions in public meetings of the MHCC and in task force and subcommittees than was the first set, and was very close to being acceptable under the Act. HUD has based today's proposed rule on the second set of the MHCC recommendations, with a few modifications. As required by section 604(b)(3) of the Act (42 U.S.C. 5403(b)(3)), HUD first submitted its proposed rule to the MHCC for the committee's prepublication review and comments. HUD has considered those comments and now is issuing this proposed rule for public comment. Most of the text of this proposal is the same as the text that was included in the MHCC proposal submitted to HUD, as published in the June 14, 2006 notice. HUD believes that today's proposed rule provides clearer regulatory structure and appropriate consumer protection provisions, while substantially adopting the MHCC recommendation.

II. Reasons for HUD's Changes

Between the time that the MHCC submitted its recommended revision of Subpart I and the time that HUD developed today's proposed rule based on the MHCC recommendation, numerous meetings of the MHCC and HUD were held to discuss the MHCC recommendation and HUD-suggested revisions. Agreement was reached in principle on some further changes suggested by HUD or members of the MHCC. Agreement could not be reached on all of the changes, however, so there was no reason for the MHCC to amend its recommendation to include the changes agreed upon. Instead, HUD has included those changes in today's proposed rule.

While HUD agreed with the MHCC on the majority of the language used in today's proposed rule, some of the MHCC's language was not consistent with the Act. HUD's proposed rule also differs from the MHCC language by adding consumer protections when warranted, ensuring that provisions are internally consistent, and adding flexibility that benefit both manufacturers and regulators. A few editorial changes have also been made for the purpose of clarifying the intent of the applicable provision.

Most of the changes made by HUD to the MHCC recommendation can be explained using six justifications, many of which are also contained in the June 14, 2006, notice rejecting the MHCC language. The justifications are as follows:

Justification 1: Changes agreed on in principle by HUD and MHCC in prepublication meetings. This justification applies to the change made in § 3282.362(c)(1).

Justification 2: The rejected MHCC language was not consistent with statutory authority. In section 615 of the Act (42 U.S.C. 5414), Congress placed responsibility for the notification and correction of defects in manufactured homes on manufacturers, and set guidelines for manufacturers to meet these responsibilities. Section 613 of the Act (42 U.S.C. 5412) imposes additional repair and repurchase requirements on manufacturers with respect to homes delivered to retailers and distributors before those homes are sold to purchasers. HUD's proposed rule recognizes those statutory responsibilities, which the MHCC recommendation failed to acknowledge appropriately. Consistent with the Act, however, HUD continues to limit the manufacturer's correction responsibilities to only those defects that are related to errors in design or assembly of the home by the manufacturer, in accordance with section 615(g) (42 U.S.C. 5414(g)).

HUD's proposed rule does not adopt MHCC language that would have established new responsibilities for retailers and distributors that are not found in the Act, would have limited the manufacturers' pre-sale correction responsibilities, and could have required HUD and state regulators to meet new burdens of proof in assuring production of manufactured homes that comply with the federal construction and safety standards. HUD also did not adopt MHCC language in § 3282.415(d) that would have been inconsistent with sections 613 and 623(b)(12) of the Act (42 U.S.C. 5412 and 5422(b)(12)). The dispute resolution program referenced in the MHCC language is intended to address problems reported in manufactured homes after installation, while the regulatory section included language to address corrections that would be required before a home is sold.

This justification applies to the changes made in §§ 3282.404(b)(3), 3282.405(a)(2), 3282.415(c), and 3282.415(d). At the same time, however, in § 3282.405(a)(2) the phrase "introduced systematically" was inserted, by agreement in principle with the MHCC. As a result of the change in § 3282.415(d), the subsequent paragraphs had to be redesignated.

Justification 3: Other proposed modifications: determination factors. HUD is also proposing a few other modifications to the MHCC's language, even though HUD did not base its June 14, 2006, notice of rejection of the MHCC language on these modifications.

HUD believes that it is important for manufacturers to use appropriate methods for determining which manufactured homes should be included in a class of homes for which notification or correction of defects or safety hazards is required. Currently, § 3282.409(c) of HUD's regulations recognizes a methodology that includes inspection of the actual homes, not the records of those homes. The MHCC language would have revised the current provision by permitting inspection of the records, including consumer and retailer complaints, rather than the homes.

HUD proposes modifying that permissive language to make it clear that the methodology would be acceptable only if the cause of the problem is such that it would be understood and reported by consumers or retailers. For example, inadequate firestopping in a home is not a condition that a homeowner, or even a retailer, can be expected to observe and report. Therefore, a manufacturer that is determining the scope of a class of homes with inadequate firestopping should not be permitted to rely on complaint records alone to identify the homes to be included in the class. HUD would also clarify that, in selecting a methodology, the manufacturer is expected to rely on information it discovers during an investigation, not just information initially provided in a complaint.

This justification applies to the changes made in § 3282.404(c).

Justification 4: Other suggested modifications: recordkeeping. HUD also proposes adding language in the recordkeeping requirements that, rather than mandating how manufacturers maintain records regarding corrective actions, would provide manufacturers options for how to comply with the requirements. HUD's proposal would also avoid using an undefined term that may have several uses in the industry and create confusion. These modifications would provide manufacturers flexibility regarding how manufacturer records are to be maintained. The new provisions would also recognize a manufacturer's right to keep some of these records in a central class determination file that might be

preferred by some manufacturers and would reduce the amount of paperwork required. HUD would add such an option because some manufacturers are already keeping their records in this alternative format, which is a format that also could be more user-friendly for HUD and state regulators in enforcing the law. This justification applies to the changes made in § 3282.417.

Justification 5: Other suggested modifications: generally. HUD would reorganize §§ 3282.411 and 3282.412 of the MHCC recommendation, to assure these provisions are internally consistent. The general structure of the MHCC recommendations for these sections would be retained, however. Section 3282.411 of the MHCC recommendation would have established the prerequisites for any state administrative agency (SAA) to refer information to the appropriate SAA or HUD for possible investigation. Section 3282.412 would have set forth requirements for HUD or an appropriate SAA to initiate a formal administrative investigation process. The revisions HUD proposes to make in these sections are technical changes to simplify and clarify the provisions and to avoid overlap within the two sections.

HUD also would add a requirement in § 3282.404(a) that, when a manufacturer makes an initial determination of a serious defect or imminent safety hazard, the manufacturer must notify HUD, the appropriate SAA, and the manufacturer's Production Inspection Primary Inspection Agency (IPIA) of the determination. The purpose of this requirement would be to provide advance notice of a potentially serious problem during the time the manufacturer is required to develop a full plan of notification and correction regarding the problem. HUD would consider this modification to be appropriate in light of the MHCC's recommendation that would extend the time a manufacturer has to complete its plan beyond what is permitted under the existing regulations.

This justification applies to the changes made in §§ 3282.404(a), 3282.411, and 3282.412.

Justification 6: Finally, HUD included clarifying and nonsubstantive, editorial changes in the modified version of the MHCC recommendations that HUD submitted to the MHCC for its prepublication review. These changes would be minor and would be for the purpose of making the intent of the applicable provision more clear. Punctuation changes are also included in this justification. This justification applies to the changes made in §§ 3282.7(j), (v), and (dd); 3282.401(b); 3282.406(b)(3); 3282.407(b); 3282.409(c)(5) and (c)(7)(ii); 3282.413(a), (b), (c), (d), and (f); 3282.415(b); 3282.416(b)(2); and 3282.417.

To make it easier for readers to cross-reference to these justifications from the changes indicated in the proposed rule, the following table also lists the sections of the MHCC recommendation that have been modified by HUD, and also provides their page number location in the June 14 notice:

Section(s)	Reference to MHCC rule (in June 14, 2006 Notice)	MHCC's original recommendations	HUD's justification for modifying MHCC's recommendation
3282.7(j) and (v) and (dd).	71 FR 34466	No MHCC recommendation. Editorial change	Justification 6—HUD's clarifying and nonsubstantive, editorial changes would be minor and for the purpose of making the intent of the applicable provision clearer. Punctuation changes were also included in this justification.
3282.362(c)(1)	71 FR 34466	MHCC included use of an undefined term "Service record".	Justification 1—This justification applies to the change made in § 3282.362(c)(1). The MHCC recommendation uses the term "service record," with no guidance on the contents of a "service record," which could have led to more confusion about the requirements and duplicative filing systems.
3282.401(b)	71 FR 34466	MHCC omitted "distributors" from the list of regulated parties.	Justification 6—HUD added "distributors" to mean any person engaged in the sale and distribution of manufactured homes for resale. Clarifying and nonsubstantive, editorial changes that would be minor and for the purpose of making the intent of the applicable provision clearer. Punctuation changes were also included in this justification.
3282.404(a)	71 FR 34467	MHCC recommended expanding from 20 days (current 3282.404(b)) to 30 days for manufacturer to make initial determinations.	Justification 5—HUD accepted MHCC's recommendation to expand from 20 to 30 days.
3282.404(b)(3)	See 71 FR 34467	MHCC recommended language to limit a manufacturer's notification responsibilities to only problems caused by persons working on behalf of a manufacturer, such as a retailer.	Justification 2—HUD's proposed rule does not adopt MHCC proposed language that would have established new responsibilities for retailers and distributors not found in the Act. The proposed language would have limited the manufacturers' pre-sale correction responsibilities, and could have required HUD and state regulators to meet new burdens of proof in assuring production of manufactured homes that meet HUD's standards.

Section(s)	Reference to MHCC rule (in June 14, 2006 Notice)	MHCC's original recommendations	HUD's justification for modifying MHCC's recommendation
3282.404(c)(1) and (c)(2)(iii).	71 FR 34467	MHCC language would have limited manufacturer's search for defects to consumer complaints and retailer records.	Justification 3—HUD rejected this language and instead requires manufacturers to use appropriate methods for determining which manufactured homes should be included in a class of homes for which notification or correction of defects or safety hazards is required. HUD's language does allow the manufacturer to solely use those records, but only when consumers and retailers understand and report the defect or problem. But HUD has retained the required use of other sources of information.
3282.405(a)(2)	71 FR 34468	MHCC language would have established new responsibilities for parties not designated in the Act and limited manufacturers' pre-sale correction responsibilities, and could have required HUD and state regulators to meet new burdens of proof in assuring production of manufactured homes that comply with the federal construction and safety standards.	Justification 2—HUD removed this because the proposed language is inconsistent with statute. HUD did, however, maintain in 405(a), the phrase developed in conjunction with the MHCC: "introduced systematically."
3282.406(b)(3)	71 FR 34468	Editorial change. No modification to the MHCC recommendation.	Justification 6—HUD's clarifying and nonsubstantive, editorial changes would be minor and for the purpose of making the intent of the applicable provision clearer. Punctuation changes were also included in this justification.
3282.407(b)	71 FR 34468	Editorial change. No modification to the MHCC recommendation.	Justification 6—HUD's clarifying and nonsubstantive, editorial changes would be minor and for the purpose of making the intent of the applicable provision clearer. Punctuation changes were also included in this justification.
3282.409(c)(5)	71 FR 34469	Editorial change. No modification to the MHCC recommendation.	Justification 6—HUD's clarifying and nonsubstantive, editorial changes would be minor and for the purpose of making the intent of the applicable provision clearer. Punctuation changes were also included in this justification.
3282.409(c)(7)(ii)	71 FR 34469	Editorial change. No modification to the MHCC recommendation.	Justification 6—HUD's clarifying and nonsubstantive, editorial changes would be minor and for the purpose of making the intent of the applicable provision clearer. Punctuation changes were also included in this justification.
3282.411 and 3282.412.	71 FR 34470	The general structure of the MHCC recommendations for these sections would be retained.	Justification 5—The general structure of the MHCC recommendations for these sections would be retained; however, HUD would reorganize §§ 3282.411 and 3282.412 of the MHCC recommendation, to assure these provisions are internally consistent. The revisions HUD proposes to make in these sections are technical changes to simplify and clarify the provisions and to avoid overlap within the two sections.
3282.413(a), (b), (c), (d), and (f).	71 FR 34470–34471	Editorial change. No modification to the MHCC recommendation.	Justification 6—HUD's clarifying and nonsubstantive, editorial changes would be minor and for the purpose of making the intent of the applicable provision clearer. Punctuation changes were also included in this justification.
3282.415(b)	71 FR 34472	Editorial change. No modification to the MHCC recommendation.	Justification 6—HUD's clarifying and nonsubstantive, editorial changes would be minor and for the purpose of making the intent of the applicable provision clearer. Punctuation changes were also included in this justification.
3282.415(c)	71 FR 34472	MHCC recommended eliminating phrases to limit the manufacturers' pre-sale correction responsibilities.	Justification 2—HUD removed this because the proposed language is inconsistent with the statute.

Section(s)	Reference to MHCC rule (in June 14, 2006 Notice)	MHCC's original recommendations	HUD's justification for modifying MHCC's recommendation
3282.415(d)	71 FR 34472	MHCC recommended that retailers/distributors become responsible parties in the notification and correction process.	Justification 2—HUD removed 415(d) because the proposed language is inconsistent with Sections 613 and 623(c)(12) of the Act (42 U.S.C. 5412 and 5422 (c)(12)).
3282.416(b)(2)	71 FR 34472	Editorial change. No modification to the MHCC recommendation.	Justification 6—HUD's clarifying and nonsubstantive, editorial changes would be minor and for the purpose of making the intent of the applicable provision clearer. Punctuation changes were also included in this justification.
3282.417	71 FR 34472	MHCC recommended rejecting all of § 3282.417.	Justification 4—HUD's modifications would provide manufacturers flexibility regarding how they keep records, including what are referred to as "service records." HUD's proposal also outlines how current service records may be supplemented with all required determination records, but without creating and maintaining a separate set of files. HUD's proposal recognizes a manufacturer's right to keep these records in a central class determination file, reducing the amount of paperwork required. The recommendation allows this, but does not require this. Justification 6—Clarifying and non-substantive, editorial changes that would be minor and for the purpose of making the intent of the applicable provision more clear. Punctuation changes were also included in this justification.

III. Response to MHCC Comments

As noted, before publishing this proposed rule, HUD was required by section 604(b)(3) of the Act (42 U.S.C. 5403(b)(3)) to first submit its proposal to the MHCC for its prepublication review and comments. HUD has considered those comments and now is issuing this proposed rule for public comment. In MHCC committee and subcommittee meetings, HUD had repeatedly discussed with MHCC members its concerns with the most recent MHCC recommendation for revision of Subpart I. As a consequence of these discussions and HUD's explanations in the June 14, 2006, notice, the MHCC was fully informed of the substantive changes HUD is proposing in today's publication, even before the proposal was formally submitted to the MHCC for its review.

Nevertheless, if HUD rejects any significant comments provided by the MHCC during its formal review of the HUD proposed rule, the Act further requires HUD to: (1) Provide to the MHCC a written explanation of the reasons for the rejection; and (2) publish the MHCC's comments and HUD's response in the **Federal Register** for public comment.

In order to comply fully with the requirements of the Act, and so that there is no question about whether HUD has appropriately characterized any particular comment of the MHCC as "significant," HUD recommends a side-by-side comparison with the June 14 notice. HUD is referencing the page numbers to where the MHCC's original proposed text can be found. The MHCC incorporated into its comments by reference its own previous recommendations and the principles it had adopted to guide its own efforts to revise the regulations in Subpart I. Both of those documents have been published in the June 14 notice. The June 14 notice is available through the Government Printing Office's **Federal Register** Web site at *http://www.gpoaccess.gov/fr/index.html* (search using the citation "71 FR 34464, June 14, 2006").

This preamble and the changes indicated in the proposed rule provide HUD's primary response to the MHCC prepublication comments. Additional HUD responses to the MHCC prepublication comments are as follows:

The MHCC comments continue to confuse the statutory authorities and procedures that are applicable to the distinct responsibilities of the regulators and regulated parties for the new dispute resolution program and the installation programs, as distinguished from the historical construction and safety standards program. HUD continues to believe that its total regulatory framework will be consistent with the Act and that Congress has made HUD responsible for implementing the statute.

Some of the MHCC prepublication comments do not accurately reflect either its own recommendations or HUD's proposed rule. For example, the comments on the recordkeeping provisions suggest that the MHCC requirements would be less burdensome than the HUD requirements. HUD's proposal evolved because the MHCC recommendation used an undefined term ("service records"), which might have several uses in the industry and create confusion about the recordkeeping requirements and lead to duplicative filing systems. HUD's less-prescriptive proposal, seen in the changes in §§ 3282.417(b) and (c), affords manufacturers flexibility in deciding how to keep their records, so that they are not required to repeat the same information in the file associated with every manufactured home that is part of a class determination. HUD's proposal also permits, but does not require, that manufacturers maintain records in a single or central class determination file. Notwithstanding, HUD specifically welcomes comment on whether it should require a single or central class determination file, whether

it should define the term "service records," and, if so, how it should define the term.

Further, HUD's proposed rule provides additional, not less, authority to SAAs to initiate and pursue preliminary and final determinations about problems in manufactured homes. The proposed rule also distinguishes between the responsibility for manufacturers to investigate "likely" defects, while the State and Federal regulators would continue to have the authority conferred by the Act to investigate possible defects. The MHCC comments also fail to acknowledge that regulators would still have to meet a higher standard of evidence before they could enforce notification or correction procedures against a manufacturer for a defect.

The MHCC also fails to distinguish between the statutory remedies of notification and correction. Under the Act, manufacturers are required to notify retailers and consumers about problems that render the manufactured home or any component unfit for its ordinary use, while the manufacturer is required to correct the problem only when it both presents a significant health or safety issue and is related to an error in design or assembly by the manufacturer. In its comments, the MHCC suggests that HUD can and should use its regulatory authority to rewrite these statutory requirements adopted by Congress.

On the other hand, the MHCC fails to acknowledge that HUD would adopt MHCC-recommended language that, for the first time, expressly recognizes a manufacturer's right to seek indemnification from component producers (§ 3283.406(e)(2)) and other commercial entities (§ 3282.415(h)) for the costs of corrections. Such arrangements would not be contrary to the Act, although section 622 of the Act (42 U.S.C. 5421) provides that purchasers may not waive their rights under it. The proposed rule (§ 3282.402(b)) also continues to protect manufacturers from responsibility for normal aging of manufactured homes and consumer abuse, as do the current regulations.

The MHCC comments suggest that HUD should not offer its own revisions to clarify language that, applying its experience as a regulator, HUD can identify as problematic. In the past, the regulations have allowed manufacturers to identify a class of manufactured homes that might share a certain defect, by inspecting homes. HUD has accepted for this proposed rule a MHCC recommendation that revises this optional method to permit inspection of records, but HUD has added that the method should be used only when the defect is such that there could be a reasonable expectation that the defect would be reported by a consumer or retailer. HUD continues to believe that a manufacturer should not rely on a records review when the defect involves a hidden construction problem, such as improper firestopping.

Before any final rule becomes effective, HUD will, of course, also respond to public comment on today's proposed rule, including further comments from the MHCC and its members.

IV. Findings and Certifications

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 it was not reviewed by the Office of Management and Budget (OMB). This rule revises 24 CFR part 3282, subpart I, which provides the procedures by which HUD enforces the notification and correction of defects requirements of the Manufactured Home Construction and Safety Standards Act of 1974. This rule is not significant because it reorganizes and streamlines the existing regulation and proposes to clarify rather than change or add substance to the existing regulation.

Unfunded Mandates Reform Act

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

Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Finding of No Significant Impact is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has Federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute, or preempts State law, unless the relevant requirements of section 6 of the Executive Order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt state law within the meaning of the Executive Order.

HUD is proposing to revise its current regulations in 24 CFR part 3282, subpart I, in order to make them more clear and consistent with the Act. These revisions are, in large part, based on recommendations by the MHCC. The revisions, however, do not greatly change current requirements affecting or preempting state law. Participation by an SAA in HUD's Manufactured Housing Program is optional, and preemption of state law is provided only to the extent required by the Act.

Paperwork Reduction Act

The information collection requirements contained in this proposed rule have been approved by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB Control Number 2502–0541. In accordance with the Paperwork Reduction Act, HUD 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.

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. HUD is required by law to implement statutory requirements concerning how manufacturers and others address reports of problems with manufactured homes, in order to protect both purchasers of factory-built homes and the general public. Small entities would not be burdened by this rule because this rule would not establish requirements that differ significantly from current requirements. This rule would streamline the current regulatory

process to reduce burdens on small entities. Roughly 60,000 manufactured homes are produced each year, and this rule would not affect or alter the cost of manufacture of such homes. For instance, this rule would revise current regulations to allow manufacturers to indemnify themselves through agreements or contracts with retailers, transporters, installers, distributors, or others for certain costs associated with corrective work performed. As a result, HUD does not believe that the rule would have a significant economic effect on a substantial number of small entities. Further, the rule is intended to have a beneficial impact, by reducing the recordkeeping burdens on manufacturers. For example, manufacturers would be allowed to keep records in a central file, thereby reducing recordkeeping requirements for small entities. Also under the rule, manufacturers would no longer be required to provide notification of a possible defect if only one home is involved and the manufacturer corrects the home, thus further reducing paperwork burdens on small entities. These revisions impose no significant economic impact on a substantial number of small entities. Therefore, the undersigned certifies that this rule will not have a significant impact on a substantial number of small entities.

Notwithstanding HUD's view that this rule would 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.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for the Manufactured Housing Program is 14.171.

List of Subjects in 24 CFR Part 3282

Administrative practice and procedure, Consumer protection, Intergovernmental relations, Investigations, Manufactured homes, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, HUD proposes to amend part 3282 of title 24 of the Code of Federal Regulations, as follows:

PART 3282—MANUFACTURED HOUSING PROCEDURAL AND ENFORCEMENT REGULATIONS

1. The authority citation for part 3282 continues to read as follows:

Authority: 28 U.S.C. 2461 note; 42 U.S.C. 5424; and 42 U.S.C. 3535(d).

2. In § 3282.7, revise paragraphs (j) and (v), and add paragraph (dd) to read as follows:

§ 3282.7 Definitions.

* * * * *

(j) *Defect* means, for purposes of this part, a failure to comply with an applicable Federal manufactured home safety and construction standard, including any defect, in the performance, construction, components, or material, that renders the manufactured home or any part thereof not fit for the ordinary use for which it was intended, but does not result in an unreasonable risk of injury or death to occupants of the affected manufactured home.

* * * * *

(v) *Manufactured home construction* means all activities relating to the assembly and manufacture of a manufactured home including, but not limited to, those relating to durability, quality, and safety, but does not include those activities regulated under the installation standards in this chapter.

* * * * *

(dd) *Manufactured home installation standards* means reasonable specifications for the installation of a manufactured home, at the place of occupancy, to ensure the proper siting, the joining of all sections of the home, and the installation of stabilization, support, or anchoring systems.

* * * * *

3. In § 3282.362, paragraph (c)(1), add a sentence immediately before the last sentence to read as follows:

§ 3282.362 Production Inspection Primary Inspection Agencies (IPIAs).

* * * * *

(c) * * *

(1) * * * The IPIA must periodically review the records that § 3282.417(e) requires the manufacturers to keep, for determinations under § 3282.404, to determine whether evidence exists that the manufacturer is ignoring or not performing under its approved quality assurance manual, and, if such evidence is found, must advise the manufacturer so that appropriate action may be taken under § 3282.404. * * *

* * * * *

4. Revise subpart I to read as follows:

Subpart I—Consumer Complaint Handling and Remedial Actions

Sec.

3282.401 Purpose and scope.
3282.402 General provisions.
3282.403 Consumer complaint and information referral.
3282.404 Manufacturers' determinations and related concurrences.
3282.405 Notification pursuant to manufacturer's determination.
3282.406 Required manufacturer correction.
3282.407 Voluntary compliance with the notification and correction requirements under the Act.
3282.408 Plan of notification required.
3282.409 Contents of plan.
3282.410 Implementation of plan.
3282.411 SAA initiation of remedial action.
3282.412 Preliminary and final administrative determinations.
3282.413 Implementation of Final Determination.
3282.414 Replacement or repurchase of homes after sale to purchaser.
3282.415 Correction of homes before sale to purchaser.
3282.416 Oversight of notification and correction activities.
3282.417 Recordkeeping requirements.
3282.418 Factors for appropriateness and amount of civil penalties.

§ 3282.401 Purpose and scope.

(a) *Purpose.* The purpose of this subpart is to establish a system of protections provided by the Act with respect to imminent safety hazards and violations of the construction and safety standards with a minimum of formality and delay, while protecting the rights of all parties.

(b) *Scope.* This subpart sets out the procedures to be followed by manufacturers, retailers, and distributors, SAAs, primary inspection agencies, and the Secretary to assure that notification and correction are provided with respect to manufactured homes when required under this subpart. Notification and correction may be required with respect to manufactured homes that have been sold or otherwise released by the manufacturer to another party.

§ 3282.402 General provisions.

(a) *Purchaser's rights.* Nothing in this subpart shall limit the rights of the purchaser under any contract or applicable law.

(b) *Manufacturer's liability limited.* A manufacturer is not responsible for failures that occur in any manufactured home or component as the result of normal wear and aging, unforeseeable consumer abuse, or unreasonable neglect of maintenance. The life of a component warranty may be one of the indicators used to establish normal wear and aging. A failure of any component may not be attributed by the manufacturer to normal wear and aging under this subpart during the term of any applicable warranty provided by the original manufacturer of the affected component.

§ 3282.403 Consumer complaint and information referral.

(a) *Retailer responsibilities.* When a retailer receives a consumer complaint or other information about a home in its possession, or that it has sold or leased, that likely indicates a noncompliance, defect, serious defect, or imminent safety hazard, the retailer must forward the complaint or information to the manufacturer of the manufactured home in question as early as possible, in accordance with § 3282.256.

(b) *SAA and HUD responsibilities.* (1) When an SAA or the Secretary receives a consumer complaint or other information that likely indicates a noncompliance, defect, serious defect, or imminent safety hazard in a manufactured home, the SAA or HUD must:

(i) Forward the complaint or information to the manufacturer of the home in question as early as possible; and

(ii) Send a copy of the complaint or other information to the SAA of the State where the manufactured home was manufactured or to the Secretary if there is no such SAA.

(2) When it appears from the complaint or other information that an imminent safety hazard or serious defect may be involved, the SAA of the State where the home was manufactured must also send a copy of the complaint or other information to the Secretary.

(c) *Manufacturer responsibilities.* Whenever the manufacturer receives information from any source that the manufacturer believes in good faith relates to a noncompliance, defect, serious defect, or imminent safety hazard in any of its manufactured homes, the manufacturer must, for each such occurrence, make the determinations required by § 3282.404.

§ 3282.404 Manufacturers' determinations and related concurrences.

(a) *Initial determination.* (1) Not later than 30 days after a manufacturer receives information that it believes in good faith likely indicates a noncompliance, defect, serious defect, or imminent safety hazard, the manufacturer must make a specific initial determination that there is a noncompliance, defect, serious defect, or imminent safety hazard, or that the information requires no further action under this subpart. When no further action under this subpart is required and a problem still exists, the manufacturer must forward the information in its possession to the appropriate retailer and, if known, the installer, for their consideration.

(2) When a manufacturer makes an initial determination that there is a serious defect or an imminent safety hazard, the manufacturer must immediately notify the Secretary, the SAA in the state of manufacture, and the manufacturer's IPIA.

(3) In making the determination of noncompliance, defect, serious defect, or imminent safety hazard, or that no further action is required under this subpart, the manufacturer must review the information it received and carry out reasonable investigations, including, if appropriate, inspections. The manufacturer must review the information, the known facts, and the circumstances relating to the complaint or information, including service records, approved designs, and audit findings, as applicable, to decide what investigations are reasonable.

(b) *Class determination.* (1) When the manufacturer makes an initial determination of defect, serious defect, or imminent safety hazard, the manufacturer must also make a good-faith determination of the class that includes each manufactured home in which the same defect, serious defect, or imminent safety hazard exists or likely exists. Multiple occurrences of defects may be considered the same defect if they have the same cause, are related to a specific workstation description, or are related to the same failure to follow the manufacturer's approved quality assurance manual. Good faith may be used as a defense to the imposition of a penalty, but does not relieve the manufacturer of its responsibilities for notification or correction under this subpart I. The manufacturer must make this class determination not later than 20 days after making a determination of defect, serious defect, or imminent safety hazard.

(2) Paragraph (c) of this section sets out methods for a manufacturer to use in determining the class of manufactured homes. If the manufacturer can identify the precise manufactured homes affected by the defect, serious defect, or imminent safety hazard, the class of manufactured homes may include only those manufactured homes actually affected by the same defect, serious defect, or imminent safety hazard. The manufacturer is also permitted to exclude from the class those manufactured homes for which the manufacturer has information that indicates the homes were not affected by the same cause. If it is not possible to identify the precise manufactured homes affected, the class must include every manufactured home in the group of homes that is identifiable since the same defect, serious defect, or imminent safety hazard exists or likely exists in some homes in that group of manufactured homes.

(3) For purposes related to this section, a defect, a serious defect, or an imminent safety hazard likely exists in a manufactured home if the cause of the defect, serious defect, or imminent safety hazard is such that the same defect, serious defect, or imminent safety hazard would likely have been introduced systematically into more than one manufactured home. Indications that the defect, serious defect, or imminent safety hazard would likely have been introduced systematically may include, but are not limited to, complaints that can be traced to the same faulty design or faulty construction, problems known to exist in supplies of components or parts, information related to the performance of a particular employee or use of a particular process, and information signaling a failure to follow quality control procedures with respect to a particular aspect of the manufactured home.

(4) If, under this paragraph (b), the manufacturer must determine the class of homes, the manufacturer must obtain from the IPIA, and the IPIA must provide, either:

(i) The IPIA's written concurrence on the methods used by the manufacturer to identify the homes that should be included in the class of homes; or

(ii) The IPIA's written statement explaining why it believes the manufacturer's methods for determining the class of homes were inappropriate or inadequate.

(c) *Methods for determining class.* (1) In making a class determination under paragraph (b) of this section, a manufacturer is responsible for carrying out reasonable investigations. In carrying out reasonable investigations, the manufacturer must review the information, the known facts, and the relevant circumstances, and generally must establish the cause of the defect, serious defect, or imminent safety hazard. Based on the results of such investigations and all information received or developed, the manufacturer must use an appropriate method or appropriate methods to determine the class of manufactured homes in which the same defect, serious defect, or imminent safety hazard exists or likely exists.

(2) Methods that may be used in determining the class of manufactured homes include, but are not limited to:

(i) Inspection of the manufactured home in question, including its design, to determine whether the defect, serious

defect, or imminent safety hazard resulted from the design itself;

(ii) Physical inspection of manufactured homes of the same design or construction, as appropriate, that were produced before and after a home in question;

(iii) Inspection of the service records of a home in question and of homes of the same design or construction, as appropriate, produced before and after that home, if it is clear that the cause of the defect, serious defect, or imminent safety hazard is such that the defect, serious defect, or imminent safety hazard would be readily reportable by consumers or retailers;

(iv) Inspection of manufacturer quality control records to determine whether quality control procedures were followed and, if not, the time frame during which they were not;

(v) Inspection of IPIA records to determine whether the defect, serious defect, or imminent safety hazard was either detected or specifically found not to exist in some manufactured homes;

(vi) Identification of the cause as relating to a particular employee whose work, or to a process whose use, would have been common to the production of the manufacturer's homes for a period of time; and

(vii) Inspection of records relating to components supplied by other parties and known to contain or suspected of containing a defect, a serious defect, or an imminent safety hazard.

(3) When the Secretary or an SAA decides the method chosen by the manufacturer to conduct an investigation in order to make a class determination is not the most appropriate method, the Secretary or SAA must explain in writing to the manufacturer why the chosen method is not the most appropriate.

(d) *Documentation required.* The manufacturer must comply with the recordkeeping requirements in § 3282.417 as applicable to its determinations and any IPIA concurrence or statement that it does not concur.

§ 3282.405 Notification pursuant to manufacturer's determination.

(a) *General requirement.* Every manufacturer of manufactured homes must provide notification as set out in this section with respect to any manufactured home produced by the manufacturer in which the manufacturer determines, in good faith, that there exists or likely exists, in more than one home, the same defect introduced systematically, a serious defect, or an imminent safety hazard.

(b) *Requirements by category*—(1) *Noncompliance.* A manufacturer must provide notification of a noncompliance only when ordered to do so by the Secretary or an SAA pursuant to §§ 3282.412 and 3282.413.

(2) *Defects.* When a manufacturer has made a class determination in accordance with § 3282.404 that a defect exists or likely exists in more than one home, the manufacturer must prepare a plan for notification in accordance with § 3282.408, and must provide notification with respect to each manufactured home in the class of manufactured homes.

(3) *Serious defects and imminent safety hazards.* When a manufacturer has made an initial determination in accordance with § 3282.404 that a serious defect or imminent safety hazard exists or likely exists, the manufacturer must prepare a plan for notification in accordance with § 3282.408, must provide notification with respect to all manufactured homes in which the serious defect or imminent safety hazard exists or likely exists, and must correct the home or homes in accordance with § 3282.406.

(c) *Plan for notification required.* (1) If a manufacturer determines that it is responsible for providing notification under this section, the manufacturer must prepare and receive approval on a plan for notification as set out in § 3282.408, unless the manufacturer meets alternative requirements established in § 3282.407.

(2) If the Secretary or SAA orders a manufacturer to provide notification in accordance with the procedures in §§ 3282.412 and 3282.413, the Secretary or SAA has the option of requiring a manufacturer to prepare and receive approval on a plan for notification.

(d) *Method of notification.* When a manufacturer provides notification as required under this section, notification must be:

(1) By certified mail or other more expeditious means to each retailer or distributor to whom any manufactured home in the class of homes containing the defect, serious defect, or imminent safety hazard was delivered;

(2) By certified or express mail to the first purchaser of each manufactured home in the class of manufactured homes containing the defect, serious defect, or imminent safety hazard, and, to the extent feasible, to any subsequent owner to whom any warranty provided by the manufacturer or required by Federal, State, or local law on such manufactured home has been transferred, except that notification need not be sent to any person known by the manufacturer not to own the manufactured home in question if the manufacturer has a record of a subsequent owner of the manufactured home; and

(3) By certified or express mail to each other person who is a registered owner of a manufactured home in the class of homes containing the defect, serious defect, or imminent safety hazard and whose name has been ascertained pursuant to § 3282.211 or is known to the manufacturer.

§ 3282.406 Required manufacturer correction.

(a) *Correction of noncompliances and defects.* (1) Section 3282.415 sets out requirements with respect to a manufacturer's correction of any noncompliance or defect that exists in each manufactured home that has been sold or otherwise released to a retailer but that has not yet been sold to a purchaser.

(2) In accordance with section 623 of the Act and part 3288 of this chapter, the manufacturer, retailer, or installer of a manufactured home must correct, at its expense, each failure in the performance, construction, components, or material of the home that renders the home or any part of the home not fit for the ordinary use for which it was intended and that is reported during the one-year period beginning on the date of installation of the home.

(b) *Correction of serious defects and imminent safety hazards.* (1) A manufacturer required to furnish notification under § 3282.405 or § 3282.413 must correct, at its expense, any serious defect or imminent safety hazard that can be related to an error in design or assembly of the manufactured home by the manufacturer, including an error in design or assembly of any component or system incorporated into the manufactured home by the manufacturer.

(2) If, while making corrections under any of the provisions of this subpart, the manufacturer creates an imminent safety hazard or serious defect, the manufacturer shall correct the imminent safety hazard or serious defect.

(3) Each serious defect or imminent safety hazard corrected under this paragraph (b) must be brought into compliance with applicable construction and safety standards or, where those standards are not specific, with the manufacturer's approved design.

(c) *Inclusion in plan.* (1) In the plan required by § 3282.408, the manufacturer must provide for correction of those homes that are required to be corrected pursuant to paragraph (b) of this section.

(2) If the Secretary or SAA orders a manufacturer to provide correction in accordance with the procedures in § 3282.413, the Secretary or SAA has the option of requiring a manufacturer to prepare and receive approval on a plan for correction.

(d) *Corrections by owners.* A manufacturer that is required to make corrections under paragraph (b) of this section or that elects to make corrections in accordance with § 3282.407 must reimburse any owner of an affected manufactured home who choses to make the correction before the manufacturer did so, for the reasonable cost of correction.

(e) *Correction of appliances, components, or systems.* (1) If any appliance, component, or system in a manufactured home is covered by a product warranty, the manufacturer, retailer, or installer that is responsible under this section for correcting a noncompliance, defect, serious defect, or imminent safety hazard in the appliance, component, or system may seek the required correction directly from the producer. The SAA that approves any plan of notification required pursuant to § 3282.408 or the Secretary, as applicable, may establish reasonable time limits for the manufacturer of the home and the producer of the appliance, component, or system to agree on who is to make the correction and for completing the correction.

(2) Nothing in this section shall prevent the manufacturer, retailer, or installer from seeking indemnification from the producer of the appliance, component, or system for correction work done on any appliance, component, or system.

§ 3282.407 Voluntary compliance with the notification and correction requirements under the Act.

A manufacturer that takes corrective action that complies with one of the following three alternatives to the requirement in § 3282.408 for preparing a plan will be deemed to have provided any notification required by § 3282.405:

(a) *Voluntary action-one home.* When a manufacturer has made a determination that only one manufactured home is involved, the manufacturer is not required to provide notification pursuant to § 3282.405 or to prepare or submit a plan if:

(1) The manufacturer has made a determination of defect; or

(2) The manufacturer has made a determination of serious defect or imminent safety hazard and corrects the home within the 20-day period. The manufacturer must maintain, in the plant where the manufactured home was manufactured, a complete record of the correction. The record must describe briefly the facts of the case and any known cause of the serious defect or imminent safety hazard and state what corrective actions were taken, and it must be maintained in the service records in a form that will allow the Secretary or an SAA to review all such corrections.

(b) *Voluntary action-multiple homes.* Regardless of whether a plan has been submitted under § 3282.408, the manufacturer may act prior to obtaining approval of the plan. Such action is subject to review and disapproval by the SAA of the State where the home was manufactured or by the Secretary, unless the manufacturer obtains the written agreement of the SAA or the Secretary that the corrective action is adequate. If such an agreement is obtained, the correction must be accepted as adequate by all SAAs and the Secretary, if the manufacturer makes the correction as agreed to and any imminent safety hazard or serious defect is eliminated.

(c) *Waiver.* (1) A manufacturer may obtain a waiver of the notification requirements in § 3282.405 and the plan requirements in § 3282.408 either from the SAA of the State of manufacture, when all of the manufactured homes that would be covered by the plan were manufactured in that State, or from the Secretary. As of the date of a request for a waiver, the notification and plan requirements are deferred pending timely submission of any additional documentation as the SAA or the Secretary may require and final resolution of the waiver request. If a waiver request is not granted, the plan required by § 3282.408 must be submitted within 5 days after the expiration of the time frame established in § 3282.408 if the manufacturer is notified that the request was not granted.

(2) The waiver may be approved if, not later than 20 days after making the determination that notification is required, the manufacturer presents evidence that it in good faith believes would show to the satisfaction of the SAA or the Secretary that:

(i) The manufacturer has identified all homes that would be covered by the plan in accordance with § 3282.408;

(ii) The manufacturer will correct, at its expense, all of the identified homes, either within 60 days of being informed that the request for waiver has been granted or within another time limit approved in the waiver;

(iii) The proposed repairs are adequate to remove the defect, serious defect, or imminent safety hazard that gave rise to the determination that correction is required; and

(3) The manufacturer must correct all affected manufactured homes within 60 days of being informed that the request for waiver has been granted or the time limit approved in the waiver, as applicable. The manufacturer must record the known cause of the problem and the correction in the service records in an approved form that will allow the Secretary or SAA to review the cause and correction.

§ 3282.408 Plan of notification required.

(a) *Manufacturer's plan required.* Except as provided in § 3282.407, if a manufacturer determines that it is responsible for providing notification under § 3282.405, the manufacturer must prepare a plan in accordance with this section and § 3282.409. The manufacturer must, as soon as practical, but not later than 20 days after making the determination of defect, serious defect, or imminent safety hazard, submit the plan for approval to one of the following, as appropriate:

(1) The SAA of the State of manufacture, when all of the manufactured homes covered by the plan were manufactured in that State; or

(2) The Secretary, when the manufactured homes were manufactured in more than one State or there is no SAA in the State of manufacture.

(b) *Implementation of plan.* Upon approval of the plan, including any changes for cause required by the Secretary or SAA after consultation with the manufacturer, the manufacturer must carry out the approved plan within the agreed time limits.

§ 3282.409 Contents of plan.

(a) *Purpose of plan.* This section sets out the requirements that must be met by a manufacturer in preparing any plan it is required to submit under § 3282.408. The underlying requirement is that the plan shows how the manufacturer will fulfill its responsibilities with respect to notification and correction.

(b) *Contents of plan.* The plan must:

(1) Identify, by serial number and other appropriate identifying criteria, all manufactured homes for which notification is to be provided, as determined pursuant to § 3282.404;

(2) Include a copy of the notice that the manufacturer proposes to use to provide the notification required by § 3282.405;

(3) Provide for correction of those manufactured homes that are required

to be corrected pursuant to § 3282.406(b);

(4) Include the IPIA's written concurrence or statement on the methods used by the manufacturer to identify the homes that should be included in the class of homes, as required pursuant to § 3282.404(b); and

(5) Include a deadline for completion of all notifications and corrections.

(c) *Contents of notice.* Except as otherwise agreed by the Secretary or the SAA reviewing the plan under § 3282.408, the notice to be approved as part of the plan must include the following:

(1) An opening statement that reads: "This notice is sent to you in accordance with the requirements of the National Manufactured Housing Construction and Safety Standards Act.";

(2) The following statement: "[choose one, as appropriate: Manufacturer's name, or the Secretary, or the (insert State) SAA] has determined that [insert identifying criteria of manufactured home] may not comply with an applicable Federal Manufactured Home Construction or Safety Standard."

(3) Except when the manufacturer is providing notice pursuant to an approved plan or agreement with the Secretary or an SAA under § 3282.408, each applicable statement must read as follows:

(i) "An imminent safety hazard may exist in (identifying criteria of manufactured home)."

(ii) "A serious defect may exist in (identifying criteria of manufactured home)."

(iii) "A defect may exist in (identifying criteria of manufactured home)."

(4) A clear description of the defect, serious defect, or imminent safety hazard and an explanation of the risk to the occupants, which must include:

(i) The location of the defect, serious defect, or imminent safety hazard in the manufactured home;

(ii) A description of any hazards, malfunctions, deterioration, or other consequences that may reasonably be expected to result from the defect, serious defect, or imminent safety hazard;

(iii) A statement of the conditions that may cause such consequences to arise; and

(iv) Precautions, if any, that the owner can, should, or must take to reduce the chance that the consequences will arise before the manufactured home is repaired;

(5) A statement of whether there will be any warning that a dangerous occurrence may take place and what that warning would be, and of any signs that the owner might see, hear, smell, or feel that might indicate danger or deterioration of the manufactured home as a result of the defect, serious defect, or imminent safety hazard;

(6) A statement that the manufacturer will correct the manufactured home, if the manufacturer will correct the manufactured home under this subpart or otherwise;

(7) A statement in accordance with whichever of the following is appropriate:

(i) Where the manufacturer will correct the manufactured home at no cost to the owner, the statement must indicate how and when the correction will be done, how long the correction will take, and any other information that may be helpful to the owner; or

(ii) When the manufacturer does not bear the cost of repair, the notification must include a detailed description of all parts and materials needed to make the correction; a description of all steps to be followed in making the correction, including appropriate illustrations; and an estimate of the cost of the purchaser or owner of the correction;

(8) A statement informing the owner that the owner may submit a complaint to the SAA or Secretary if the owner believes that:

(i) The notification or the remedy described therein is inadequate;

(ii) The manufacturer has failed or is unable to remedy the problem in accordance with its notification; or

(iii) The manufacturer has failed or is unable to remedy the problem within a reasonable time after the owner's first attempt to obtain remedy; and

(9) A statement that any actions taken by the manufacturer under the Act in no way limit the rights of the owner or any other person under any contract or other applicable law and that the owner may have further rights under contract or other applicable law.

§ 3282.410 Implementation of plan.

(a) *Deadline for notifications.* (1) The manufacturer must complete the notifications carried out under a plan approved by an SAA or the Secretary under § 3282.408 on or before the deadline approved by the SAA or Secretary. In approving each deadline, an SAA or the Secretary will allow a reasonable time to complete all notifications, taking into account the number of manufactured homes involved and the difficulty of completing the notifications.

(2) The manufacturer must, at the time of dispatch, furnish to the SAA or the Secretary a true or representative copy of each notice, bulletin, and other written communication sent to retailers, distributors, or owners of manufactured homes regarding any serious defect or imminent safety hazard that may exist in any homes produced by the manufacturer, or regarding any noncompliance or defect for which the SAA or Secretary requires, under § 3282.413(c), the manufacturer to submit a plan for providing notification.

(b) *Deadline for corrections.* A manufacturer that is required to correct a serious defect or imminent safety hazard pursuant to § 3282.406(b) must complete implementation of the plan required by § 3282.408 on or before the deadline approved by the SAA or the Secretary. The deadline must be no later than 60 days after approval of the plan. In approving the deadline, the SAA or the Secretary will allow a reasonable amount of time to complete the plan, taking into account the seriousness of the problem, the number of manufactured homes involved, the immediacy of any risk, and the difficulty of completing the action. The seriousness and immediacy of any risk posed by the serious defect or imminent safety hazard will be given greater weight than other considerations.

(c) *Extensions.* An SAA that approved a plan or the Secretary may grant an extension of the deadlines included in a plan, if the manufacturer requests such an extension in writing and shows good cause for the extension, and if the SAA or the Secretary decides that the extension is justified and not contrary to the public interest. When the Secretary grants an extension for completion of any corrections, the Secretary will notify the manufacturer and must publish notice of such extension in the **Federal Register**. When an SAA grants an extension for completion of any corrections, the SAA must notify the Secretary and the manufacturer.

(d) *Recordkeeping.* The manufacturer must provide the report and maintain the records that are required by § 3282.417 for all notification and correction actions.

§ 3282.411 SAA initiation of remedial action.

(a) *SAA review of information.* Whenever an SAA has information indicating the possible existence of a noncompliance, defect, serious defect, or imminent safety hazard in a manufactured home, the SAA may initiate administrative review of the need for notification and correction. An SAA initiates administrative review by either:

(1) Referring the matter to another SAA in accordance with paragraph (b) of this section or to the Secretary; or

(2) Taking action itself in accordance with § 3282.412, when it appears that all of the homes affected by the noncompliance, defect, serious defect, or imminent safety hazard were manufactured in the SAA's State.

(b) *SAA referral of matter.* If at any time it appears that the affected manufactured homes were manufactured in more than one State, an SAA that decides to initiate such administrative review must refer the matter to the Secretary for possible action pursuant to § 3282.412. If it appears that all of the affected manufactured homes were manufactured in another State, an SAA that decides to initiate administrative review must refer the matter to the SAA in the State of manufacture or to the Secretary, for possible action pursuant to § 3282.412.

§ 3282.412 Preliminary and final administrative determinations.

(a) *Grounds for issuance of preliminary determination.* The Secretary or, in accordance with § 3282.411, an SAA in the State of manufacture, may issue a Notice of Preliminary Determination when:

(1) The manufacturer has not provided to the Secretary or SAA the necessary information to make a determination that:

(i) A noncompliance, defect, serious defect, or imminent safety hazard possibly exists; or

(ii) A manufacturer had information that likely indicates a noncompliance, defect, serious defect, or imminent safety hazard for which the manufacturer failed to make the determinations required under § 3282.404;

(2) The Secretary or SAA has information that indicates a noncompliance, defect, serious defect, or imminent safety hazard possibly exists, and, in the case of the SAA, the SAA believes that:

(i) The affected manufactured home has been sold or otherwise released by a manufacturer to a retailer or distributor, but there is no completed sale of the home to a purchaser;

(ii) Based on the same factors that are established for a manufacturer's class determination in § 3282.404(b), the information indicates a class of homes in which a noncompliance or defect possibly exists; or

(iii) The information indicates one or more homes in which a serious defect or an imminent safety hazard possibly exists;

(3) The Secretary or SAA is reviewing a plan under § 3282.408 and the Secretary or SAA disagree with the manufacturer on proposed changes to the plan;

(4) The Secretary or SAA believes that the manufacturer has failed to fulfill the requirements of a waiver granted under § 3282.407; or

(5) There is information that a manufacturer failed to make the determinations required under § 3282.404.

(b) *Additional requirements—SAA issuance.* (1) An SAA that receives information that indicates a serious defect or an imminent safety hazard possibly exists in a home manufactured in that SAA's State must notify the Secretary about that information.

(2) An SAA that issues a preliminary determination must provide a copy of the preliminary determination to the Secretary at the time of its issuance. Failure to comply with this requirement does not affect the validity of the preliminary determination.

(c) *Additional requirements—Secretary issuance.* The Secretary will notify the SAA of each State where the affected homes were manufactured, and, to the extent reasonable, the SAA of each State where the homes are located, of the issuance of a preliminary determination. Failure to comply with this requirement does not affect the validity of the preliminary determination.

(d) *Notice of Preliminary Determination.* (1) The Notice of Preliminary Determination must be sent by certified mail or express delivery and must:

(i) Include the factual basis for the determination;

(ii) Include the criteria used to identify any class of homes in which the noncompliance, defect, serious defect, or imminent safety hazard possibly exists;

(iii) If applicable, indicate that the manufacturer may be required to make corrections on a home or in a class of homes; and

(iv) If the preliminary determination is that the manufacturer failed to make an initial determination required under § 3282.404(a), include an allegation that the manufacturer failed to act in good faith.

(2) The Notice of Preliminary Determination must inform the manufacturer that the preliminary determination will become final unless the manufacturer requests a hearing or presentation of views under subpart D of this part.

(e) *Presentation of views.* (1) If a manufacturer elects to exercise its right to a hearing or presentation of views, the Secretary or the SAA, as applicable, must receive the manufacturer's request for a hearing or presentation of views:

(i) Within 15 days of delivery of the Notice of Preliminary Determination of serious defect, defect, or noncompliance; or

(ii) Within 5 days of delivery of the Notice of Preliminary Determination of imminent safety hazard.

(2) A Formal or an Informal Presentation of Views will be held in accordance with § 3282.152 promptly upon receipt of a manufacturer's request under paragraph (c) of this section.

(f) *Issuance of Final Determination.* (1) The SAA or the Secretary, as appropriate, may make a Final Determination that is based on the allegations in the preliminary determination and adverse to the manufacturer if:

(i) The manufacturer fails to respond to the Notice of Preliminary Determination within the time period established in paragraph (c)(2) of this section; or

(ii) The SAA or the Secretary decides that the views and evidence presented by the manufacturer or others are insufficient to rebut the preliminary determination.

(2) At the time that the SAA or Secretary makes a Final Determination that an imminent safety hazard, serious defect, defect, or noncompliance exists, the SAA or Secretary, as appropriate, must issue an order in accordance with § 3282.413.

§ 3282.413 Implementation of Final Determination.

(a) *Issuance of orders.* (1) The SAA or the Secretary, as appropriate, must issue an order directing the manufacturer to furnish notification if:

(i) The SAA makes a Final Determination that a defect or noncompliance exists in a class of homes;

(ii) The Secretary makes a Final Determination that an imminent safety hazard, serious defect, defect, or noncompliance exists; or

(iii) The SAA makes a Final Determination that an imminent safety hazard or a serious defect exists in any home and the SAA has received the Secretary's concurrence on the issuance of the Final Determination and order.

(2) The SAA or the Secretary, as appropriate, must issue an order directing the manufacturer to make corrections in any affected manufactured home if:

(i) The SAA or the Secretary makes a Final Determination that a defect or noncompliance exists in a manufactured home that has been sold or otherwise released by a manufacturer to a retailer

or distributor but for which the sale to a purchaser has not been completed;

(ii) The Secretary makes a Final Determination that an imminent safety hazard or serious defect exists; or

(iii) The SAA makes a Final Determination that an imminent safety hazard or serious defect exists in any home, and the SAA has received the Secretary's concurrence on the issuance of the Final Determination and order.

(3) Only the Secretary may issue an order directing a manufacturer to repurchase or replace any manufactured home already sold to a purchaser, unless the Secretary authorizes an SAA to issue such an order.

(4) An SAA that has a concurrence or authorization from the Secretary on any order issued under this section must have the Secretary's concurrence on any subsequent changes to the order. An SAA that has issued a Preliminary Determination must have the Secretary's concurrence on any waiver of notification or any settlement when the concerns addressed in the Preliminary Determination involve a serious defect or an imminent safety hazard.

(5) If an SAA or the Secretary makes a Final Determination that the manufacturer failed to make in good faith an initial determination required under § 3282.404(a):

(i) The SAA may impose any penalties or take any action applicable under State law and may refer the matter to the Secretary for appropriate action; and

(ii) The Secretary may take any action permitted by law.

(b) *Decision to order replacement or repurchase.* The SAA or the Secretary will order correction of any manufactured home covered by an order issued in accordance with paragraph (a)(2) of this section, unless any requirements and factors applicable under § 3282.414 and § 3282.415 indicate that the SAA or the Secretary should order replacement or repurchase of the home.

(c) *Time for compliance with order.* (1) The SAA or the Secretary may require the manufacturer to submit a plan for providing any notification and any correction, replacement, or repurchase remedy that results from an order under this section. The manufacturer's plan must include the method and date by which notification and any corrective action will be provided.

(2) The manufacturer must provide any such notification and correction, replacement, or repurchase remedy as early as practicable, but not later than:

(i) Thirty days after issuance of the order, in the case of a Final Determination of imminent safety hazard or when the SAA or Secretary has ordered replacement or repurchase of a home pursuant to § 3282.414; or

(ii) Sixty days after issuance of the order, in the case of a Final Determination of serious defect, defect, or noncompliance.

(3) Subject to the requirements of paragraph (a)(3) of this section, the SAA that issued the order or the Secretary may grant an extension of the deadline for compliance with an order if:

(i) The manufacturer requests such an extension in writing and shows good cause for the extension; and

(ii) The SAA or the Secretary is satisfied that the extension is justified in the public interest.

(4) When the SAA grants an extension, it must notify the manufacturer and forward to the Secretary a draft of a notice of the extension for the Secretary to publish in the **Federal Register**. When the Secretary grants an extension, the Secretary must notify the manufacturer and publish notice of such extension in the **Federal Register**.

(d) *Appeal of SAA determination.* Within 10 days of a manufacturer receiving notice that an SAA has made a Final Determination that an imminent safety hazard, a serious defect, a defect, or noncompliance exists or that the manufacturer failed to make the determinations required under § 3282.404, the manufacturer may appeal the Final Determination to the Secretary under § 3282.309.

(e) *Settlement offers.* A manufacturer may propose in writing, at any time, an offer of settlement and shall submit it for consideration by the Secretary or the SAA that issued the Notice of Preliminary Determination. The Secretary or the SAA has the option of providing the manufacturer making the offer with an opportunity to make an oral presentation in support of such offer. If the manufacturer is notified that an offer of settlement is rejected, the offer is deemed to have been withdrawn and will not constitute a part of the record in the proceeding. Final acceptance by the Secretary or an SAA of any offer of settlement automatically terminates any proceedings related to the matter involved in the settlement.

(f) *Waiver of notification.* (1) At any time after the Secretary or an SAA has issued a Notice of Preliminary Determination, the manufacturer may ask the Secretary or SAA to waive any formal notification requirements. When requesting a waiver, the manufacturer must certify that:

(i) The manufacturer has made a class determination in accordance with § 3282.404(b);

(ii) The manufacturer will correct, at the manufacturer's expense, all affected manufactured homes in the class within a time period specified by the Secretary or SAA, but is not later than 60 days after the manufacturer is notified of the acceptance of the request for waiver or the issuance of any Final Determination, whichever is later; and

(iii) The proposed repairs are adequate to correct the noncompliance, defect, serious defect, or imminent safety hazard that gave rise to the issuance of the Notice of Preliminary Determination.

(2) If the Secretary or SAA grants a waiver, the manufacturer must reimburse any owner of an affected manufactured home who chose to make the correction before the manufacturer did so, for the reasonable cost of correction.

(g) *Recordkeeping.* The manufacturer must provide the report and maintain the records that are required by § 3282.417 for all notification and correction actions.

§ 3282.414 Replacement or repurchase of homes after sale to purchaser.

(a) *Order to replace or repurchase.* Whenever a manufacturer cannot fully correct an imminent safety hazard or a serious defect in a manufactured home for which there is a completed sale to a purchaser within 60 days of the issuance of an order under § 3282.413 or any extension of the 60-day deadline that has been granted by the Secretary in accordance with § 3282.413(c), the Secretary or, if authorized in writing by the Secretary in accordance with § 3282.413(a)(3), the SAA may require that the manufacturer:

(1) Replace the manufactured home with a home that:

(i) Is substantially equal in size, equipment, and quality; and

(ii) Either is new or is in the same condition that the defective manufactured home would have been in at the time of discovery of the imminent safety hazard or serious defect had the imminent safety hazard or serious defect not existed; or

(2) Take possession of the manufactured home, if the Secretary or the SAA so orders, and refund the purchase price in full, except that the amount of the purchase price may be reduced by a reasonable amount for depreciation if the home has been in the possession of the owner for more than one year and the amount of depreciation is based on:

(i) Actual use of the home; and

(ii) An appraisal system approved by the Secretary or the SAA that does not take into account damage or deterioration resulting from the imminent safety hazard or serious defect.

(b) *Factors affecting order.* In determining whether to order replacement or refund by the manufacturer, the Secretary or the SAA will consider:

(1) The threat of injury or death to manufactured home occupants;

(2) Any costs and inconvenience to manufactured home owners that will result from the lack of adequate repair within the specified period;

(3) The expense to the manufacturer;

(4) Any obligations imposed on the manufacturer under contract or other applicable law of which the Secretary or the SAA has knowledge; and

(5) Any other relevant factors that may be brought to the attention of the Secretary or the SAA.

(c) *Owner's election of remedy.* When under contract or other applicable law the owner has the right of election between replacement and refund, the manufacturer must inform the owner of such right of election and must inform the Secretary of the election, if any, made by the owner.

(d) *Recordkeeping.* The manufacturer must provide the report that is required by § 3282.417 when a manufactured home has been replaced or repurchased under this section.

§ 3282.415 Correction of homes before sale to purchaser.

(a) *Sale or lease prohibited.* Manufacturers, retailers, and distributors must not sell, lease, or offer for sale or lease any manufactured home that they have reason to know in the exercise of due care contains a noncompliance, defect, serious defect, or imminent safety hazard. The sale of a home to a purchaser is complete when all contractual obligations of the manufacturer, retailer, and distributor to the purchaser have been met.

(b) *Retailer/distributor notification to manufacturer.* When a retailer, acting as a reasonable retailer, or a distributor, acting as a reasonable distributor, believes that a manufactured home that has been sold to the retailer or distributor, but for which there is no completed sale to a purchaser, likely contains a noncompliance, defect, serious defect, or imminent safety hazard, the retailer or distributor must notify the manufacturer of the home in a timely manner.

(c) *Manufacturer's remedial responsibilities.* Upon a Final Determination pursuant to § 3282.412 by the Secretary or an SAA, a determination by a court of appropriate jurisdiction, or a manufacturer's own determination that a manufactured home that has been sold to a retailer but for which there is no completed sale to a purchaser contains a noncompliance, defect, serious defect, or imminent safety hazard, the manufacturer must do one of the following:

(1) Immediately repurchase such manufactured home from the retailer or distributor at the price paid by the retailer or distributor, plus pay all transportation charges involved, if any, and a reasonable reimbursement of not less than one percent per month of such price paid prorated from the date the manufacturer receives notice by certified mail of the noncompliance, defect, serious defect, or imminent safety hazard; or

(2) At its expense, immediately furnish to the retailer or distributor all required parts or equipment for installation in the home by the retailer or distributor, and the manufacturer must reimburse the retailer or distributor for the reasonable value of the retailer's or distributor's work, plus a reasonable reimbursement of not less than one percent per month of the manufacturer's or distributor's selling price, prorated from the date the manufacturer receives notice by certified mail to the date the noncompliance, defect, serious defect, or imminent safety hazard is corrected, so long as the retailer or distributor proceeds with reasonable diligence with the required work; or

(3) Carry out all needed corrections to the home.

(d) *Establishing costs.* The value of reasonable reimbursements as specified in paragraph (c) of this section will be fixed by either:

(1) Mutual agreement of the manufacturer and retailer or distributor; or

(2) A court in an action brought under section 613(b) of the Act (42 U.S.C. 5412(b)).

(e) *Records required.* The manufacturer and the retailer or distributor must maintain records of their actions taken under this section in accordance with § 3282.417.

(f) *Exception for leased homes.* This section does not apply to any manufactured home purchased by a retailer or distributor that has been leased by such retailer or distributor to a tenant for purposes other than resale. Other remedies that may be available to a retailer or distributor under subpart I of this part continue to be applicable.

(g) *Indemnification.* A manufacturer may indemnify itself through agreements or contracts with retailers, distributors, transporters, installers, or others for the costs of repurchase, parts, equipment, and corrective work incurred by the manufacturer pursuant to paragraph (c).

§ 3282.416 Oversight of notification and correction activities.

(a) *IPIA responsibilities.* The IPIA in each manufacturing plant must:

(1) Assure that notifications required under this subpart I are sent to all owners, purchasers, retailers, and distributors of whom the manufacturer has knowledge;

(2) Audit the certificates required by § 3282.417 to assure that the manufacturer has made required corrections;

(3) Whenever a manufacturer is required to determine a class of homes pursuant to § 3282.404(b), provide either:

(i) The IPIA's written concurrence on the methods used by the manufacturer to identify the homes that should be included in the class of homes; or

(ii) The IPIA's written statement explaining why it believes the manufacturer's methods for determining the class of homes were inappropriate or inadequate; and

(4) Periodically review the manufacturer's service records of determinations under § 3282.404 and take appropriate action in accordance with §§ 3282.362(c) and 3282.364.

(b) *SAA and Secretary's responsibilities.* (1) SAA oversight of manufacturer compliance with this subpart will be done primarily by periodically checking the records that manufacturers are required to keep under § 3282.417.

(2) The SAA or Secretary to which the report required by § 3282.417(a) is sent is responsible for assuring through oversight that remedial actions have been carried out as described in the report. The SAA of the State in which an affected manufactured home is located may inspect that home to determine whether any correction required under this subpart I is carried out in accordance with the approved plan or, if there is no plan, with the construction and safety standards or other approval obtained by the manufacturer.

§ 3282.417 Recordkeeping requirements.

(a) *Manufacturer report on notifications and corrections.* Within 30 days after the deadline for completing any notifications, corrections, replacement, or repurchase required pursuant to this subpart, the manufacturer must provide a complete

report of the action taken to, as appropriate, the Secretary or the SAA that approved the plan under § 3282.408, granted a waiver, or issued the order under § 3282.413. If any other SAA or the Secretary forwarded the relevant consumer complaint or other information to the manufacturer in accordance with § 3282.403, the manufacturer must send a copy of the report to that SAA or the Secretary, as applicable.

(b) *Records of manufacturer's determinations.* (1) A manufacturer must record each initial and class determination required under § 3282.404, in a manner approved by the Secretary or an SAA and that identifies who made each determination, what each determination was, and all bases for each determination. Such information must be available for review by the IPIA.

(2) The manufacturer records must include:

(i) The information it received that likely indicated a noncompliance, defect, serious defect, or imminent safety hazard;

(ii) All of the manufacturer's determinations and each basis for those determinations;

(iii) The methods used by the manufacturer to establish any class, including, when applicable, the cause of the defect, serious defect, or imminent safety hazard; and

(iv) Any IPIA concurrence or statement that it does not concur with the manufacturer's class determination, in accordance with § 3282.404(b).

(3) When the records that a manufacturer is required to keep in accordance with this paragraph (b) involve a class of manufactured homes that have the same noncompliance, defect, serious defect, or imminent safety hazard, the manufacturer has the option of meeting the requirements of this paragraph by establishing a class determination file, instead of including the same information in the file required by paragraph (e) of this section for each affected home. Such class determination file must contain the records of each class determination, notification, and correction, as applicable. For each class determination, the manufacturer must record once in each class determination file the information common to the class, and must identify by serial number all of the homes that the class comprises and that are subject to notification and correction, as applicable.

(c) *Manufacturer records of notifications.* When a manufacturer is required to provide notification under this subpart, the manufacturer must maintain a record of each type of notice sent and a complete list of the persons notified and their addresses. The manufacturer must maintain these records in a manner approved by the Secretary or an SAA to identify each notification campaign.

(d) *Manufacturer records of corrections.* When a manufacturer is required to provide or provides correction under this subpart, the manufacturer must maintain a record of one of the following, as appropriate, for each manufactured home involved:

(1) If the correction is made, a certification by the manufacturer that the repair was made to conform to the Federal construction and safety standards in effect at the time the home was manufactured and that each identified imminent safety hazard or serious defect has been corrected; or

(2) If the owner refuses to allow the manufacturer to repair the home, a certification by the manufacturer that:

(i) The owner has been informed of the problem that may exist in the home;

(ii) The owner has been provided with a description of any hazards, malfunctions, deterioration, or other consequences that may reasonably be expected to result from the defect, serious defect, or imminent safety hazard; and

(iii) An attempt has been made to repair the problems, but the owner has refused the repair.

(e) *Maintenance of manufacturer's records.* (1) Except as provided in paragraph (b)(3) of this section, for each manufactured home produced by a manufacturer, the manufacturer must maintain all of the information required by paragraphs (b), (c), and (d) of this section in a printed or electronic format, and must consolidate the information in a readily accessible file or in a readily accessible combination of a printed file and an electronic file. For each home, the manufacturer also must include in such file a copy of the home's data plate; all information related to manufacture, handling, and assembly of the home; any checklist or similar documentation used by the manufacturer in the transport of the home; the name and address of the retailer; the original or a copy of each purchasers' registration record received by the manufacturer; all correspondence with the retailer and homeowner that is related to the home; any information received by the manufacturer regarding set-up of the home; all work orders for servicing the home; and the information that the manufacturer is required to keep pursuant to § 3282.211. The manufacturer must organize all such files in order of the serial number of the homes produced.

(2) The manufacturer must maintain each of these manufactured home records at the plant where the home was produced. If that plant is no longer in existence, the manufacturer must keep the records at its nearest production plant in the same State, or, if such a plant does not exist, at the manufacturer's corporate headquarters.

(f) *Retailer and distributor records of corrections.* When a retailer or distributor makes corrections necessary to bring a manufactured home into compliance with the construction and safety standards, the retailer or distributor must maintain a complete record of its actions.

(g) *Length of retention.* Records of the information and any other records required to be maintained by this subpart must be kept for a minimum of 5 years from the date the manufacturer, retailer, or distributor, as applicable:

(1) Received the information;

(2) Creates the record; or

(3) Completes the notification or correction campaign.

§ 3282.418 Factors for appropriateness and amount of civil penalties.

In determining whether to seek a civil penalty for a violation of the requirements of this subpart, and the amount of such penalty to be recommended, the Secretary will consider the provisions of the Act and the following factors:

(a) The gravity of the violation;

(b) The degree of the violator's culpability, including whether the violator had acted in good faith in trying to comply with the requirements;

(c) The injury to the public;

(d) Any injury to owners or occupants of manufactured homes;

(e) The ability to pay the penalty;

(f) Any benefits received by the violator;

(g) The extent of potential benefits to other persons;

(h) Any history of prior violations;

(i) Deterrence of future violations; and

(j) Such other factors as justice may require.

Dated: February 4, 2011.

David H. Stevens,

Assistant Secretary for Housing—Federal Housing Commissioner.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix to FR–5238–P–01: Prepublication Comments of the MHCC

RE: HUD Proposed Rule on Subpart I for Consensus Committee Review and Comment

In a letter dated February 15, 2006 the Secretary of the U.S. Department of Housing

and Urban Development (HUD) submitted a proposed rule to revise "Subpart I—Consumer Complaint Handling and Remedial Action" in the Manufactured Home Procedural and Enforcement Regulations to the Manufactured Housing Consensus Committee (MHCC or consensus committee) for review and comment under Section 604(b)(3) of the Manufactured Housing Improvement Act of 2000 (2000 Act).

In accordance with Section 604(b)(3) the consensus committee is providing the following written comments, including the attachments, to the Secretary for consideration and response.

The consensus committee has thoroughly reviewed the Secretary's proposed rule and strongly disagrees with the Secretary's response that the proposed rule "is the same as the recommendations submitted to the Secretary by the MHCC except for a few changes in the text" or that the proposed rule "incorporates almost all of the recommendations by the MHCC". The Secretary's proposed rule makes substantial and significant modifications to the Subpart I proposal submitted by the MHCC to the Secretary in June 2005 for the Secretary's consideration pursuant to Section 604(b)(1) of the 2000 Act.

Additionally, the MHCC devoted almost all of the 20+ meetings referred to in the [HUD submittal] letter to the development of the MHCC Subpart I proposal. The MHCC's proposal was formally submitted to the Secretary in June 2005, and the MHCC then devoted two meetings to considering the Secretary's proposed changes to the MHCC proposal. Instead of either approving or rejecting the MHCC proposal with a written explanation within 120 days as required by Section 604(b)(4) of the 2000 Act, the Secretary submitted his own proposal in the form of a proposed rule.

On February 23, 2006, following a lengthy discussion, the MHCC adopted, by a 12 to 1 vote, a resolution stating: (1) The MHCC does not agree with the HUD proposed rule at this time; (2) The MHCC would submit comments to the proposed rule in accordance with the 2000 Act that provides the MHCC 120 days to submit written comments, and (3) The MHCC written comments would include the MHCC's Statement of Principles that was used to develop the MHCC's Subpart I reform proposal, the text of the MHCC June 2005 consensus Subpart I reform proposal and written comments containing MHCC's specific disagreements with the Secretary's proposal.

Our comments will be in three Sections:

(Section 1) Formal re-submittal of the MHCC Subpart I Proposal along with the Principles we developed in order to guide us in proposing the changes contained in our Proposal as Attachments.

(Section 2) Identification of the significant policy changes in the Secretary's proposed rule that are different from the Proposal submitted by the MHCC and the impact those policy changes will have on Consumer Complaint Handling and Remedial Actions.

(Section 3) Identification of specific changes to Sections of the Secretary's proposed rule and the impact of making those changes.

Section 1: Formal Re-Submittal of MHCC Subpart I Proposal and the Principles Used bv the Consensus Committee To Draft the Proposal

In accordance with the resolution adopted by the MHCC on February 23, 2006, the MHCC hereby formally re-submits to HUD its original consensus Subpart I reform proposal originally submitted on June 3, 2005, together with the consensus principles which it used to develop that proposal.

The purpose of this re-submission is three-fold. First, the MHCC continues to believe that its consensus approach to Subpart I is more fair, reasonable and ultimately, more effective, than the Secretary's proposed rule and continues to urge its adoption. Second, the original MHCC consensus proposal contains differences from the HUD proposed rule that may not otherwise be addressed in detail in these comments. To the extent that such differences occur, the MHCC prefers and continues to support its consensus-based approach. Consequently, the text of the original proposal supplements and expands the comments contained herein. Third, HUD has not taken action on the MHCC's original consensus proposal as required by section 604(b)(4) of the 2000 Act. Under that section, if the Secretary rejects an MHCC-proposed regulation, the regulation and the Secretary's reasons for rejection must be published in the Federal Register within 120 days. Insofar as the MHCC's original proposal has never been published with the reasons for its rejection, it is both re-submitted under authority of section 604(b)(1) and included as an integral part of these comments under authority of section 604(b)(3) which, among other things, requires the Secretary to publish the MHCC's comments together "with the Secretary's response thereto." The public will thereby be assured an opportunity to review the MHCC proposal and the grounds for its rejection by the Secretary.

1. Attachment A: MHCC Proposal

2. Attachment B: Principles for amending Subpart I

Section 2: Significant Policy Changes in the MHCC Subpart I Proposal That the MHCC Continues To Recommend the Secretary Incorporate Into Any Proposed Rule To Update and Improve Subpart I

The MHCC Subpart I proposal is based on a number of fundamental fairness concepts that have been rejected by the Secretary and deleted from the proposed rule that has been submitted to the MHCC for its consideration. Some but not all of these concepts are set forth below. The MHCC continues to believe that these concepts need to be included as part of any reform of Subpart I.

A. *Individual Accountability:* The MHCC proposal contains the concept that if the retailer caused construction standard problems with the home, the retailer is accountable for fixing those problems. The Secretary's proposed rule deletes this retailer accountability and places that accountability with the manufacturer. This could cause significant problems in the dispute resolution process and does not hold the person accountable for the work they do. [*HUD* **Note:** the dispute resolution process is also subject to specific statutory requirements, which are separate from the statutory requirements that are the basis of today's proposed rule.]

B. *Retailer accountability:* The basic premise of the MHCC consensus proposal is that Subpart I accountability should attach to the person responsible for causing a particular defect (or serious defect or imminent safety hazard). The MHCC concluded that the Act provides HUD with clear regulatory authority over retailers and distributors (among others). For example, retailers may be ordered to repair defects under the proposed federal Dispute Resolution Program. As a result, the MHCC proposal provides, in section 415(d), that retailers or distributors may be required to correct defects that they cause when their actions take a home out of compliance with the construction standards. This entire provision (and concept) is deleted from the HUD submission.

C. *Manufacturer accountability:* As a corollary to its conclusion that defects should be addressed under Subpart I by the person or entity that caused them, the MHCC proposal provides that manufacturers are required to give notice of defects (section 405(a)) and provide correction (section 415 (c)), when the defect is "caused" by the manufacturer, "including a person performing work or providing a component on behalf of the manufacturer." The MHCC concluded that it is fundamentally unfair to require a manufacturer (or any other party) to investigate, document and remedy a defect caused by another party. This conclusion is consistent with a reasonable reading of the Act and the current Subpart I, which recognizes exceptions for certain defects caused during transportation and by the homeowner. Again, this entire concept is deleted.

D. *Systematic introduction of defects:* The Secretary's proposed rule actually imposes broader responsibility on manufacturers than now exists for defects caused by others, in that it deletes not only the MHCC's "caused by" language noted above, but also *current* Subpart I language which limits notification of defects to those "systematically introduced during the course of production." Under the HUD proposal, a manufacturer would be required to investigate *any* type of defect in more than one home, regardless of who introduced the defect and when it was introduced.

E. *New Program Responsibility:* The MHCC proposal took into account the new program responsibility under the 2000 Act the Secretary has for finding and fixing installation problems and for resolving disputes about who will fix a problem between the manufacturer, the retailer and the installer by amending Subpart I with those potential new programs in mind.

1. The MHCC proposal accomplished this by indicating the manufacturer must determine if he is responsible for any problems under the Standards (Construction or Installation) that could be classified a noncompliance, defect, serious defect, or imminent safety hazard,

2. If the problem was not related to constructing the home, the manufacturer was to notify the appropriate retailer and installer, and

3. The MHCC proposal clarified the Subpart I rules by only speaking to a manufacturer's responsibility for notification and correction of construction related problems under Subpart I. The MHCC believes any manufacturer responsibility for notification or correction of problems with installation or as an outcome of the dispute resolution process should be addressed in those program rules. The Secretary's proposed rule rejects this concept and re-introduces generic notification requirements that are not specific to Subpart I issues. This continues the confusion and potential for misinterpretation of accountability.

4. In addition to the hundreds of hours the MHCC spent revising Subpart I, the MHCC also spent many hours on developing principles for a Dispute Resolution Program. However, when reading HUD's proposed rule in total, the need for a Dispute Resolution Program becomes meaningless—the manufacturer is responsible for all defects.

F. *Installation-related defects:* The MHCC proposal requires that corrections be made, under certain circumstances, to bring the home into compliance "with applicable standards." This language recognizes the fact that under the 2000 Act HUD will soon be regulating installation; that the installation standards, as codified by HUD, are not part of the "construction and safety standards;" and that improper installation is responsible for many reported defects. These installation problems which are identified as part of a Subpart I investigation need to be referred to the installation program enforcement program for resolution. The HUD proposal rejects this concept by referring solely to bringing homes "into compliance with the construction and safety standards."

It should be noted that the MHCC does not agree with HUD's premise that Federal installation standards which it adopts under section 605 of the Act do not constitute Federal Manufactured Construction and Safety Standards within the meaning and intent of the Act. The public comments filed by the MHCC on June 23, 2005 in connection with HUD Rulemaking Docket No. FR–4928–P–01, reiterates MHCC's position that the Federal installation standards fall within the statutory definitions of "manufactured home construction" (Sec. 603(1)) and "manufactured home safety," (Sec. 603(8)) insofar as they relate to the "assembly" and "performance" of the home.

G. *One file:* The MHCC spent a lot of time debating the current cumbersome paperwork process and duplicate file requirements that the existing enforcement and Subpart I regulations require. To reduce this paperwork process we recommended that Subpart I documentation be put in the home's service records maintained by the manufacturer. If this happened, the service records would contain all the problems identified for a home and could be a primary source of information to conduct Subpart I investigations for problems caused by patterns of construction.

1. Not only did the Secretary reject this concept, the proposed rule restricts what information regarding construction problems you could look for in the service records,

2. The Secretary's proposed rule continues to require separate Subpart I files,

3. The Secretary's proposed rule requires all services records to contain certain information in a specific format for any information the manufacturer wishes to put in its service records, thus increasing the amount of paperwork over existing requirements and

4. The Secretary's proposed rule has new reporting requirements during the initial 30 days, for reporting a potential serious defect or imminent safety hazard to the Secretary, the SAA in the State of manufacturer and the manufacturer's IPIA. These same problems require a plan of notification under the proposed 3282.405 which must be sent for approval 20 days after initial determination. This requirement for duplicate notification focuses the effort on paperwork compilation as opposed to timely fixing of the homeowner's problem and finding any additional homes that may have the problem.

H. *Service Record:* The Secretary's proposed rule has new paperwork requirements placed on every home by dictating that every service record for each home have specific, and many times duplicate, information from other manufacturer filing systems such as production checklists, production correction notices, etc. However, the class determinations under Subpart I do not have to be in these files. The MHCC did not propose such an increase in paperwork and believes this increase in an already burdensome paperwork process takes the focus away from fixing the home.

I. *Increased Secretary Involvement to the Detriment of the SAA:* In several places through-out the proposed rules information is now required to be sent to the Secretary or the manufacturer can go directly to the Secretary rather than deal with the SAA in the State of manufacturer. This potential for by-passing the States which are in partnership with the Secretary in the Administration of the program would allow the manufacturer to determine whether the SAA or the Secretary would be more lenient to the detriment of the homeowner. Additionally, the Secretary's staffing is so limited timeliness of response would be an issue. The MHCC proposal did not recommend such procedures and continued to rely on the States fulfilling their responsibilities.

J. *Vague and Subjective Wording:* In the pivotal section concerning manufacturers determinations the HUD proposal requires manufacturers to conduct inspections of "service records" of homes of the same design or construction if a defect, serious defect or imminent safety hazard "would be readily reportable" by consumers or retailers. This is extremely subjective and requires guesswork by manufacturers as to what would or would not be "readily reportable" and whether or not the Secretary or an SAA would agree. Given the possibility of criminal penalties under the Act, speculation and guesswork should not be a component of Subpart I.

K. "*Possible*" *versus* "*Likely*" *as the Basis for Preliminarv Determinations:* Section 612(a) of the Secretary's proposed rule allows the Secretary or an SAA to make a preliminary determination mandating notification if either has information "indicating" that a defect, serious defect, or an imminent safety hazard "possibly exists." The original MHCC consensus proposal authorized a preliminary determination if the Secretary or SAA has information which "likely indicates" the existence of a defect or a more serious problem. The difference is important. One of the purposes of the MHCC proposal is to move away from the paperwork caused by the subjective and the speculative and focus on getting known problems fixed. To require notification of a "possible" defect effectively requires manufacturers to prove a negative—the non-existence of a defect in order to avoid the costs and stigmatization that are part of a notice campaign. The MHCC also adopted this standard in order to provide the same threshold standard for determinations by both manufacturers and the Secretary/SAAs—i.e., likely existence of a defect or more serious problem. Under the HUD proposal, speculation regarding "possible" defects is reintroduced and differing thresholds are imposed for determinations made by manufacturers versus eterminations made by regulators.

Section 3: Specific Language Changes Recommended bv the MHCC To the Proposed Rule Submitted to the MHCC for Review and Comment

The MHCC offers the following recommended changes with comments to the Secretary's Proposed rule in accordance with Section 604(b)(3) of the 2000 Act.

A. 3282.7 (j): Secretary's proposed rule is the same as the MHCC proposal. *MHCC agrees.*

B. 3282.7(v): Secretary's proposed rule is the same as the MHCC proposal. *MHCC agrees.*

C. 3282.7(dd): Secretary's proposed rule except for a grammatical change is the same as the MHCC proposal. *MHCC agrees.*

D. 3282.362(c)(1) New sentence: The Secretary's proposed rule is significantly different from MHCC proposal in the following ways:

—Requires the IPIA to look at all information the manufacturer would be required to keep including transporter checklists, retailer name and address, correspondence with retailer, and homeowner service work orders etc. None of this information is related to Subpart I problems

—Does not focus the IPIA's efforts to look at information on problems with the home because the review efforts are so generic

—Greatly increases IPIA responsibilities with little perceived benefit

—Section 2 comments under G, H, and J in this letter relate to the changes in this Section

MHCC recommends the Secretary adopt the MHCC wording for the new sentence in 3282.362(c)(1) and delete the wording in the proposed rule

E. 3282.401 Purpose and Scope: Secretary's proposed rule adds distributors to manufacturers and retailers in the MHCC proposal. *MHCC agrees.*

F. 3282.402 General Provisions: Secretary's proposed rule is the same as the MHCC proposal. *MHCC agrees.*

G. 3282.403 Consumer complaint and information referral: Secretary s proposed

rule is the same as the MHCC proposal. *MHCC agrees.*

H. 3282.404 Manufacturers' determinations and related concurrences: Secretary's proposed rule is significantly different from the MHCC proposal in the following ways:

—Requires new reporting requirements to the Secretary, the SAA in the State of manufacturer and the manufacturer's IPIA during the first 30 critical days when the focus should be on finding and determining the scope of the problem and preparing the plan to fix the problem; not on paperwork. These regulators will be notified within 20 more days anyway with the plan of correction and notification as required by 3282.408

—Broadens manufacturer's current responsibilities for problems caused "during the course of production" to anything and rejects the MHCC proposal that persons should be accountable for the work or changes to the house they do. For example, one of the common problems in the field found during consumer complaint handling is the taking of fixtures out of one home and putting them in another home, sometimes incorrectly. The retailer who did this work should be accountable not the manufacturer. The Secretary's proposal rejects this notion

—The MHCC proposal included the referral to the installer and retailer but could not comment further since the MHCC has not seen the Secretary's final rule governing dispute resolution corrective actions

—Rejects the MHCC's attempt to reduce paperwork by riling Subpart I problems in the service records and then restricts service record review to items that "would be readily reportable by consumers or retailers" (whatever that means)

—Section 2 comments in C, D, E, F, G, H, I, and J in this letter relate to the changes in this Section

MHCC recommends the Secretary adopt the wording for Section 3282.404 in the MHCC proposal and delete the wording in the proposed rule

I. 3282.405 Notification pursuant to manufacturer s determination: The Secretary's proposed rule is significantly different than the MHCC proposal in the following ways:

—Expands manufacturer's current responsibilities for notification from problems found during the course of production for imminent safety hazard (imminent and unreasonable risk of death or severe personal injury) and serious defect (renders a part of the home not fit for ordinary use or results in unreasonable risk of injury) to any problem found in more than one home. The MHCC believes that to hold the manufacturer accountable for notification for work it did not do (outside the course of production) is not fair and holds the wrong person accountable

—Significantly expands the paperwork of manufacturers by requiring the manufacturer to prepare a plan for notification for every problem they receive, even if Subpart I requires them to do nothing or only one home was affected

—Section 2 comments in A, B, D, E, F, and J in this letter relate to the changes in this Section

MHCC recommends the Secretary adopt the wording for Section 3282.405 in the MHCC proposal and delete the wording in the proposed rule

J. 3282.406 Required manufacturer correction: Secretary's proposal is more limiting than the MHCC proposal in the following way:

—The Secretary's proposal limits the manufacturer's correction to items that are construction and safety standards. The Secretary has interpreted the 2000 Act to exclude from construction and safety standards any item that is considered by the Secretary to be part of the installation standards. Close up of multi-section homes was historically considered part of the construction and safety standards (now in the installation standard) and manufacturer responsibilities for problems caused during the installation set-up may require correction. That is why the MHCC proposal included applicable standards

—Section 2 comments in A, E, and F in this letter relate to the changes in this Section

MHCC recommends the Secretary adopt the wording for Section 3282.406 in the MHCC proposal and delete the wording! in the Secretary's proposal

K. 3282.407 Voluntary compliance with the notification and correction requirements under the Act: Secretary's proposed rule uses different wording than the MHCC proposal but the intent seems to be the same. *MHCC agrees*

L. 3282.408 Plan of notification required: Secretary's proposed rule is the same as the MHCC proposal. *MHCC agrees*

M. 3282.409 Contents of plan: Secretary's proposed rule has grammatical edits from the MHCC proposal. *MHCC agrees*

N. 3282.410 Implementation of Plan: Secretary's proposed rule and the MHCC proposal is the same. *MHCC agrees*

O. 3282.411 SAA Initiation of remedial action: Secretary's proposed rule is completely different from the MHCC proposal in the following ways:

—MHCC proposal included a timeline for the Secretary's initiation remedial action. The Secretary's proposed rule deletes all references to when the Secretary will initiate remedial action. The MHCC believes it is reasonable to have the Secretary indicate when he would initiate remedial action

—The Secretary's proposed rule allows a State to refer a problem to either the State of manufacture or the Secretary. Historically, the States as partners with the Secretary handled the day to day activities of the program such as subpart I matters in their State. This change would allow for bypassing of the State and going directly to the Secretary at any time

—The Secretary's proposed rule allows for initiation of administrative review by a State when the State has information that a problem possibly exists. This is the same as the MHCC proposal. However, the MHCC proposal indicated this initiation must be based on the same information that the manufacturer had. If the State has new information they should refer that information to the manufacturer for possible adjustment of their position before the regulator arbitrarily steps in

—Section 2 comments in A, C, D, I, J, and K in this letter relate to the changes to in this Section

MHCC recommends the Secretary adopt the wording for Section 3292.411 in the MHCC proposal and delete the wording in the proposed rule

P. 3282.412 Preliminary and final administrative determinations: Secretary's proposed rule is significantly different from the MHCC proposal in the following ways:

—The Secretary's proposal allows for making a preliminary determination based on a decision that a defect "possibly exists" versus the MHCC proposal that allows for initiation of administrative review but requires the regulator to make a determination when the information rises to the level of "likely exists". The MHCC proposal requires the manufacturer to provide enough information to the regulator to make such a determination and provides for the regulator to make preliminary determination if the manufacturer failed to do so. The MHCC believes that adoption of its position would move the program away from paperwork notification of speculative items and focus on getting known problems identified and fixed

—Section 2 comments in J and K in this letter relate to the changes in this Section

MHCC recommends the Secretary adopt the wording for Section 3282.412 in the MHCC proposal and delete the wording in the proposed rule

Q. 3282.413 Implementation of Final Determination: Secretary's proposed rule is the same as the MHCC proposal except for some grammatical changes. *MHCC agrees*

R. 3282.414 Replacement or repurchase of homes after sale to purchaser: Secretary's proposed rule is the same as the MHCC proposal. *MHCC agrees*

S. 3282.415 Correction of homes before sale to purchaser: Secretary's proposed rule is significantly different from the MHCC proposal in the following ways:

—The Secretary's proposed rule removes the concept of persons being accountable for the work they do by holding the manufacturer accountable for work done by others over which the manufacturer has no control

—The Secretary's proposed rule makes the new dispute resolution process in the 2000 Act null and void by holding the manufacturer accountable for everything including retailer work that would be part of a dispute

—Section 2 comments in A, B, C, D, E, F, and J in this letter relate to the changes in this Section

MHCC recommends the Secretary adopt the wording in Section 3282.415 in the MHCC proposal and delete the wording in the proposed rule

T. 3282.416 Oversight of notification and correction activities: The Secretary's proposed rule has grammatical changes and

a change that limits SAA (State) oversight to construction standards as defined in this subpart which is different from the MHCC proposal in the following ways:

—The MHCC proposal indicated "Standards" due to the placement of close-up of the home in the installation standards. Close-up is currently viewed as construction and safety standards. By limiting State oversight to the Subpart I definition of construction and safety standards, the Secretary's proposed rule would potentially have a body of work no longer regulated for correction of problems

—Section 2 comments in E, F, and J in this letter relate to the changes in this Section

MHCC recommends the Secretary adopt the working for Section 3282.416 in the MHCC proposal and delete the wording in the proposed rule

U. 3282.417 Recordkeeping requirements: The Secretary's proposed rule is significantly different from the MHCC proposal in the following ways:

—The Secretary's proposed rule rejects the concept of one file for the recording and tracking of problems found with the home when it is out in the community which would reduce current paperwork requirements

—The Secretary's proposed rule adds new paperwork requirements by requiring manufacturers to put information in service records that is in separate filing systems such as the information about corrections made to the home during production

—The Secretary's proposed rule describes what should be the service file how it should be organized and includes information that does not relate to fixing problems with the home

—Section 2 comments in C, D, G, H, I, and J in this letter relate to the changes in the Section.

MHCC recommends the Secretary adopt the wording for Section 3282.417 in the MHCC proposal and delete the wording in the proposed rule

V. 3282.418 Factors for appropriateness and amount of civil penalties: Secretary's proposed rule is the same as the MHCC proposal. *MHCC agrees*

While consumers, the industry and the general public, as represented on the MHCC, have embraced the 2000 Act, it appears that others have not. The MHCC urges the Secretary to reconsider his proposed changes to Subpart I in the proposed rule. The MHCC recommends that the Secretary adopt the proposed rule changes recommended by the MHCC that carry out the intent of the 2000 Act and the principles used by the MHCC in developing the Subpart I reform proposal that was sent to the Secretary.

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Federal Register

Vol. 76, No. 31

Tuesday, February 15, 2011

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The United States Government Manual **741–6000**

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Electronic and on-line services (voice) **741–6020**

Privacy Act Compilation **741–6064**

Public Laws Update Service (numbers, dates, etc.) **741–6043**

TTY for the deaf-and-hard-of-hearing **741–6086**

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FEDERAL REGISTER PAGES AND DATE, FEBRUARY

5467–5678 1
5679–6048 2
6049–6310 3
6311–6522 4
6522–6686 7
6686–7094 8
7095–7478 9
7479–7680 10
7681–8264 11
8265–8602 14
8603–8870 15

CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revison date of each title.

1 CFR

9 6311
11 6311
12 6311

3 CFR

Proclamations:
8625 6305
8626 6307
8627 6521

Executive Orders:
13501 (revoked by 13564) 6309
13564 6309
13565 7681

Administrative Orders:
Memorandums:
Memorandum of February 7, 2011 7477

7 CFR

301 5679
319 8603
915 7095
996 7096
1429 6313
2902 6319
4279 8404
4287 8404
4288 ..... 7916, 7936

Proposed Rules:
925 7119
2902 6366

9 CFR

78 6322

Proposed Rules:
93 7721
94 7721
98 7721
103 6702
112 6702
114 6702
309 6572

10 CFR

1023 7685

Proposed Rules:
40 8314
73 ..... 6085, 6086, 6087, 6200

12 CFR

21 6687
41 6687
225 8265
907 7479
1213 7479

Proposed Rules:
225 7731
330 7740
1228 6702

13 CFR

120 7098
121 ..... 5680, 7098, 8222
124 ..... 5680, 8222
125 5680
126 5680
134 5680

Proposed Rules:
Ch. III 5501, 6088

14 CFR

25 8278
39 ..... 5467, 6323, 6523, 6525, 6529, 6533, 6535, 6536, 6539, 6541, 6543, 6549, 7101, 7694, 8605, 8607, 8610, 8612, 8615, 8618, 8620, 8622
45 7482
71 ..... 5469, 5470, 5471, 5472, 6049, 8281, 8624, 8625, 8626, 8627
77 8628
97 ..... 6050, 6053, 8288, 8291
110 7482
119 7482
121 7482
129 7482
135 7482
440 8629

Proposed Rules:
25 ..... 6088, 8314, 8316, 8319
27 6094
29 6094
33 8321
39 ..... 5503, 5505, 5507, 6575, 6578, 6581, 6584, 7511, 7513, 8661
71 ..... 7515, 8322, 8324
139 5510

15 CFR

748 7102

Proposed Rules:
922 6368

17 CFR

229 6010
240 6010
249 6010

Proposed Rules:
3 6095
4 ..... 7976, 8068
23 ..... 6708, 6715
32 6095
33 6095
35 6095
145 7976
147 7976
229 ..... 6110, 6111
239 6110
249 ..... 6110, 6111

275.....8068
279.....8068

18 CFR

157.....8293
Proposed Rules:
410.....6727

19 CFR

123.....6688
141.....8294
142.....6688
178.....6688
351.....7491
Proposed Rules:
351.....5518

21 CFR

510.....6326
516.....6326
573.....7106
878.....6551
880.....8637
Proposed Rules:
310.....7743
334.....7743

23 CFR

470.....6690

24 CFR

Proposed Rules:
200.....5518
903.....6654
905.....6654
941.....6654
968.....6654
969.....6654
3282.....8852

25 CFR

15.....7500

26 CFR

1.....6553
Proposed Rules:
1.....7757
31.....7757
301.....6369

27 CFR

1.....5473
4.....5473
5.....5473
7.....5473
9.....5473
13.....5473
16.....5473
17.....5473
18.....5473
20.....5473
22.....5473
24.....5473
25.....5473
26.....5473
28.....5473
30.....5473
40.....5473
41.....5473
44.....5473
45.....5473
53.....5473
70.....5473
71.....5473

28 CFR

552.....6054
Proposed Rules:
115.....6248

29 CFR

4022.....8649

30 CFR

Proposed Rules:
104.....5719
938.....6587
948.....6589

31 CFR

548.....5482
562.....7695
Proposed Rules:
1.....7121
29.....6112

32 CFR

199.....8294
655.....6692
Proposed Rules:
156.....5729

33 CFR

100 .....7107, 7701, 8651
117 .....5685, 5686, 6694, 7107, 8653
147.....7107
165 .....7107, 8654, 8656
334.....6327
Proposed Rules:
100.....7123
117.....7131, 8663
165 .....5732, 6728, 7131, 7515
181.....7757

36 CFR

1254.....6554
Proposed Rules:
219.....8480
242.....6730, 7758

37 CFR

Proposed Rules:
1.....6369

38 CFR

1.....6694
36.....6555
Proposed Rules:
3.....5733, 8666
14.....8666
20.....8666

39 CFR

20.....7114
Proposed Rules:
3050.....8325

40 CFR

51.....6328
52 .....6331, 6559, 7116, 8298, 8300
81.....6056
93.....6328
180 .....5687, 5691, 5696, 5704, 5711, 6335, 6342, 6347, 7703, 7707, 7712
271.....6561, 6564
Proposed Rules:
1.....8674
26.....5735
50.....8158
52 .....6376, 6590, 7142, 8326, 8330
53.....8158
55.....7518
58.....8158
141.....7762
271.....6594

42 CFR

405.....5862
424.....5862
447.....5862
455.....5862
457.....5862
498.....5862
1007.....5862
Proposed Rules:
416.....5755
418.....5755
482.....5755
483.....5755
484.....5755
485.....5755
486.....5755
491.....5755

43 CFR

4.....7500
30.....7500

44 CFR

61.....7508
Proposed Rules:
67 .....5769, 6380, 8330

45 CFR

Proposed Rules:
144.....7767
147.....7767
170.....5774
1609.....6381

46 CFR

148.....8658
401.....6351

47 CFR

64.....8659
73.....7719
Proposed Rules:
0.....6928
1.....5652, 6928
2.....5521, 6928
5.....6928
15.....5521
22.....6928
73.....5521, 6928
74.....6928
80.....6928
87.....6928
90.....6928
101.....6928

48 CFR

216.....8303
245.....6004, 6006
252 .....6004, 6006, 8303
901.....7685
902.....7685
903.....7685
904.....7685
906.....7685
907.....7685
908.....7685
909.....7685
911.....7685
914.....7685
915.....7685
916.....7685
917.....7685
952.....7685
1816.....6696
Proposed Rules:
24.....7522
Ch. II.....7782
1834.....7526

49 CFR

171.....5483
173.....5483
191.....5494
192.....5494
Proposed Rules:
33.....8675
229.....8699
238.....8699
385.....5537
390.....5537
395.....5537
1201.....8699

50 CFR

17 .....6066, 6848, 7246
216.....6699
300.....6567
622 .....5717, 6364, 7118
648.....8306
679.....5718, 6083
Proposed Rules:
17 .....6734, 7528, 7634
100.....6730, 7758
223.....6754, 6755
224.....6383
648.....5555
665.....8330
679.....7788
680.....5556, 8700

LIST OF PUBLIC LAWS

This is the first in a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

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To provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes. (Jan. 31, 2011)

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