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

WHEN: Tuesday, July 13, 2010
9 a.m.–12:30 p.m.

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

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

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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.

Rules and Regulations

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

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0068; Directorate Identifier 2010–NE–05–AD; Amendment 39–16331; AD 2010–12–10]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–45 and CF6–50 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) for General Electric Company (GE) CF6–45 and CF6–50 series turbofan engines with certain low-pressure turbine (LPT) rotor stage 3 disks installed. That AD required initial and repetitive borescope inspections of the high-pressure turbine (HPT) rotor stage 1 and stage 2 blades for wear and damage, including excessive airfoil material loss. That AD also required fluorescent penetrant inspection (FPI) of the LPT rotor stage 3 disk under certain conditions and removal of the disk from service before further flight if found cracked. This ad requires the same inspections at reduced intervals and additional borescope inspections. This AD also requires repetitive exhaust gas temperature (EGT) system checks. This AD results from reports received of two additional LPT rotor stage 3 disk events. 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: Effective June 24, 2010.

We must receive any comments on this AD by August 9, 2010.

ADDRESSES: Use one of the following addresses to comment on this AD.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

FOR FURTHER INFORMATION CONTACT: Christopher J. Richards, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; *e-mail: christopher.j.richards@faa.gov; phone:* (781) 238–7133; *fax:* (781) 238–7199.

SUPPLEMENTARY INFORMATION: The FAA amends 14 CFR part 39 by superseding AD 2010–06–15, Amendment 39–16240 (75 FR 12661, March 17, 2010). That AD required initial and repetitive borescope inspections of the HPT rotor stage 1 and stage 2 blades for wear and damage, including excessive airfoil material loss. That AD also required FPI of the LPT rotor stage 3 disk under certain conditions and removal of the disk from service before further flight if found cracked. That AD was the result of three reports of uncontained failures of LPT rotor stage 3 disks and eight reports of cracked LPT rotor stage 3 disks found during shop visit inspections. That condition, if not corrected, could result in an uncontained engine failure and damage to the airplane.

Actions Since AD 2010–06–15 Was Issued

Since AD 2010–06–15 was issued, we received reports of two additional LPT rotor stage 3 disk events, bringing the total number of events to five. Additionally, the National Transportation Safety Board issued Safety Recommendations A–10–98 through A–10–101. These recommendations include performing a borescope inspection of the HPT rotor blades more frequently than was originally required in AD 2010–06–15.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other GE CF6–45 and CF6–50 series turbofan engines of the same type design. For that reason, 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. This AD requires initial and repetitive borescope inspections of the HPT rotor stage 1 and stage 2 blades. This AD also requires additional borescope inspections and FPI of the LPT rotor stage 3 disk, depending on the results of the borescope inspection. This AD also requires repetitive EGT system checks.

FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, we have found that notice and opportunity for public comment before issuing this AD are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Interim Action

These actions are interim actions and we may take further rulemaking actions in the future.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to send us any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA–2010–0068; Directorate Identifier 2010–NE–05–AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of the Web site, anyone can find and read the comments in any

of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Examining the AD Docket

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

2. Is not a "significant rule" under 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 summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–16240 (75 FR 12661, March 17, 2010), and by adding a new airworthiness directive, Amendment 39–16331, to read as follows:

2010–12–10 General Electric Company: Amendment 39–16331. Docket No. FAA–2010–0068; Directorate Identifier 2010–NE–05–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective June 24, 2010.

Affected ADs

(b) This AD supersedes AD 2010–06–15, Amendment 39–16240.

Applicability

(c) This AD applies to General Electric Company (GE) CF6–45A, CF6–45A2, CF6–50A, CF6–50C, CF6–50CA, CF6–50C1, CF6–50C2, CF6–50C2B, CF6–50C2D, CF6–50C2–F, CF6–50C2–R, CF6–50E, CF6–50E1, and CF6–50E2 series turbofan engines, with any of the following low-pressure turbine (LPT) rotor stage 3 disks installed:

9061M23P06	9061M23P07	9061M23P08	9061M23P09	9224M75P01
9061M23P10	1473M90P01	1473M90P02	1473M90P03	1473M90P04
9061M23P12	9061M23P14	9061M23P15	9061M23P16	1479M75P01
1479M75P02	1479M75P03	1479M75P04	1479M75P05	1479M75P06
1479M75P07	1479M75P08	1479M75P09	1479M75P11	1479M75P13
1479M75P14	N/A	N/A	N/A	N/A

These engines are installed on, but not limited to, Boeing 747–200/–300, DC–10, MD–10, and KC–10 aircraft, and Airbus A300 series aircraft.

Unsafe Condition

(d) This AD results from reports received of two additional LPT rotor stage 3 disk events. 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.

Borescope Inspections of High-Pressure Turbine (HPT) Rotor Stage 1 and Stage 2 Blades

(f) Borescope-inspect the HPT rotor stage 1 and stage 2 blades from the forward and aft directions within 10 cycles from the effective date of this AD. You can find further guidance about borescoping in Table 2 of this AD.

(g) Thereafter, borescope-inspect the HPT rotor stage 1 and stage 2 blades from the forward and aft directions within every 75 cycles-since-last-inspection (CSLI). You can find further guidance about borescoping in Table 2 of this AD.

Additional Borescope Inspections

(h) Borescope-inspect the HPT rotor stage 1 and stage 2 blades from the forward and aft directions within the cycle limits after the engine has experienced the events specified in Table 1 of this AD. You can find further guidance about borescoping in Table 2 of this AD.

TABLE 1—ADDITIONAL BORESCOPE INSPECTION CRITERIA

If the engine has experienced:	Then borescope inspect:
(1) An exhaust gas temperature (EGT) above redline.	Within 10 cycles.

TABLE 1—ADDITIONAL BORESCOPE INSPECTION CRITERIA—Continued

If the engine has experienced:	Then borescope inspect:
(2) A shift in the smoothed EGT trending data that exceeds 18° F (10° C), but is less than or equal to 36° F (20° C).	Within 10 cycles.
(3) A shift in the smoothed EGT trending data that exceeds 36° F (20° C).	Before further flight.
(4) A flightcrew reported vibration determined to be caused by the high-pressure rotor (N2).	Within 10 cycles from the report.

Actions Required for Engines With Damaged HPT Rotor Blades

(i) Remove the engine before further flight if the engine fails the borescope inspection in paragraph (f), (g), or (h) of this AD.

(j) Before returning the engine to service, fluorescent penetrant inspect the inner diameter surface forward cone body (forward spacer arm) of the LPT rotor stage 3 disk. If a crack is found or if a circumferential band of fluorescence appears, permanently remove the disk from service.

EGT System Checks

(k) Inspect the turbine midframe (TMF) liner for clocking and subsequent damage to the EGT probes, within 50 cycles from the effective date of this AD or before accumulating 750 CSLI of the TMF liner for clocking, whichever occurs later. You can find further guidance about TMF liner inspections in Table 2 of this AD.

(l) Thereafter, inspect the TMF liner for clocking and subsequent damage to the EGT probes within every 750 CSLI. You can find further guidance about TMF liner inspections in Table 2 of this AD.

(m) If the engine shows TMF liner clocking resulting in wear through 100% of the wall thickness of the thermocouple guide sleeve, remove the engine and repair the TMF and any damage to the EGT probes before further flight. You can find further guidance about TMF liner inspections in Table 2 of this AD.

(n) Check the resistance of the EGT system within 50 cycles from the effective date of this AD or before accumulating 750 cycles-since-the-last-resistance check of the EGT system, whichever occurs later. You can find further guidance about the EGT resistance check in Table 2 of this AD.

(o) Thereafter, check the resistance of the EGT system within every 750 CSLI. You can find further guidance about EGT resistance checks in Table 2 of this AD.

(p) Repair or replace any EGT system component that fails this check, before further flight. You can find further guidance about the EGT resistance check in Table 2 of this AD.

Definitions

(q) For the purposes of this AD, an EGT above redline is a confirmed over temperature indication that is not a result of EGT system error. You can find further guidance about troubleshooting EGT above redline in Table 2 of this AD.

(r) For the purposes of this AD, a shift in the smoothed EGT trending data is a shift in a rolling average of EGT that can be confirmed by a corresponding shift in the trending of fuel flow or fan speed/core speed relationship. You can find further guidance about evaluating EGT trend data in GE Company Service Rep Tip 373 "Guidelines For Parameter Trend Monitoring."

TABLE 2—AMM REFERENCES FOR FURTHER GUIDANCE

Engine inspections	Boeing 747/CF6–50/–45 AMM ATA	Boeing DC–10/CF6–50 AMM ATA	Boeing MD–10/CF6–50 AMM ATA	Airbus A300/CF6–50 AMM ATA
Borescope Inspection of HPT Rotor Stage 1 and Stage 2 Blades.	72–00–00, 601	72–53–00	72–53–00	72–53–00.
Exceeded EGT Limit	72–00–00, 601	72–00–00, 601	72–00–00, 6–1	72–00–00, 601.
EGT Resistance Check	77–21–00, 501	77–21–00	77–21–01	77–21–00.
TMF Liner Clocking	72–00–00, 601, and 72–52–00.	72–54–00	72–54–00 and 77–21–01	72–54–00.

Previous Credit

(s) A borescope inspection performed before the effective date of this AD using AD 2010–06–15 and within the last 75 cycles, satisfies the initial borescope inspection requirement in paragraph (f) of this AD.

Alternative Methods of Compliance

(t) Alternative methods of compliance previously approved for AD 2010–06–15, are not approved for this AD.

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

Related Information

(v) Contact Christopher J. Richards, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; *e-mail: christopher.j.richards@faa.gov; phone:* (781) 238–7133; fax: (781) 238–7199, for more information about this AD.

Material Incorporated by Reference

(w) None.

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

Peter A. White,

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

[FR Doc. 2010–13873 Filed 6–7–10; 11:15 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0053; Airspace Docket No. 10–ASO–12]

Establishment of Class E Airspace; Quitman, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This action confirms the effective date of a direct final rule published in the **Federal Register** April 1, 2010 that establishes Class E Airspace at Quitman Brooks County Airport, Quitman, GA.

DATES: *Effective Date:* 0901 UTC, June 9, 2010.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5610.

SUPPLEMENTARY INFORMATION:

Confirmation of Effective Date

The FAA published this direct final rule with a request for comments in the **Federal Register** on April 1, 2010 (75 FR 16333), Docket No. FAA–2010–0053; Airspace Docket No. 10–ASO–12. The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will

be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on June 3, 2010. No adverse comments were received, and thus this notice confirms that effective date.

Issued in College Park, Georgia, on May 27, 2010.

Barry A. Knight,

Acting Manager, Operations Support Group Eastern Service Center, Air Traffic Organization.

[FR Doc. 2010–13636 Filed 6–8–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0502; Airspace Docket No. 10–AAL–15]

Revocation and Establishment of Class E Airspace; Nuiqsut, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes and establishes Class E airspace on the north slope of Alaska near Nuiqsut, AK, to provide controlled airspace to contain aircraft executing special Instrument Approach Procedures (IAPs) at two heliport facitities, Pioneer Heliport (AA27), Nuiqsut, AK, and Oooguruk Island Heliport (AK32), Nuiqsut, AK, both formerly known as Oooguruk Drill Site and Oooguruk Tie-in Helipads, respectively. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations at the Pioneer and Oooguruk Island Heliports, AK.

DATES: *Effective Date:* 0901 UTC, July 29, 2010. 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: Gary Rolf, 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: gary.ctr.rolf@faa.gov.* Internet address: *http://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/fs/alaskan/rulemaking/.*

SUPPLEMENTARY INFORMATION:

History

On Thursday September 3, 2009, the FAA amended Title 14 Code of Federal Regulations (14 CFR) part 71, to establish Class E airspace upward from 700 ft. above the surface and from 1,200 ft. above the surface at two privately owned heliport facilities at Oooguruk, AK (74 FR 45554). The two heliports were named "Oooguruk Drill Site Helipad" and "Oooguruk Tie-in Helipad". Subsequent to publication, the FAA gained further knowledge that the two heliports are actually named "Pioneer Heliport" and "Oooguruk Island Heliport" and should be associated with the town of Nuiqsut (the closest nearby). This administrative action is being taken without public comment as it is a simple administrative change only, and will not affect the defined controlled airspace other than by name change and minor edit to unnecessary exclusion wording. The airspace exclusion currently associated with Restricted Area 2204 is unnecessary. Class E and Restricted airspace are mutually exclusive, so the exclusion wording is being removed. Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface in the Pioneer and Oooguruk Island Heliport areas are removed and established by this action.

The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9T, *Airspace Designations and Reporting Points,* signed August 27, 2009, and effective September 15, 2009, 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 amendment to 14 CFR part 71 establishes Class E airspace extending 700 and 1,200 feet above the surface at Pioneer and Oooguruk Island Heliports, AK.

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. Since 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 two heliports at Pioneer Heliport, AK, and Oooguruk Island Heliport, AK, 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; AIRWAYS; 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 7400.9T, *Airspace Designations and Reporting Points,* signed August 27, 2009, and effective September 15, 2009, 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 Oooguruk Drill Site Helipad, AK [Removed]

* * * * *

AAL AK E5 Nuiqsut, Oooguruk Island Heliport, AK [New]

Oooguruk Island Heliport, AK
(Lat. 70°29′44″ N., long. 150°15′12″ W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Oooguruk Island Heliport, AK; and that airspace extending upward from 1,200 feet above the surface within a 73-mile radius of the Oooguruk Island Heliport, AK.

* * * * *

AAL AK E5 Oooguruk Tie-in Helipad, AK [Removed]

* * * * *

AAL AK E5 Nuiqsut, Pioneer Heliport, AK [New]

Pioneer Heliport, AK
(Lat. 70°24′51″ N., long. 150°01′07″ W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Pioneer Heliport, AK; and that airspace extending upward from 1,200 feet above the surface within a 73-mile radius of the Pioneer Heliport, AK.

Issued in Anchorage, AK, on May 26, 2010.

Michael A. Tarr,

Acting Manager, Alaska Flight Services Information Area Group.

[FR Doc. 2010–13545 Filed 6–8–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30727; Amdt. No. 3376]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective June 9, 2010. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 9, 2010.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169; or

4. 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.*

Availability—All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit *http://www.nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Harry J. Hodges, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (*Mail Address:* P.O. Box 25082, Oklahoma City, OK 73125) *Telephone:* (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or revoking SIAPS, Takeoff Minimums and/or ODPS. The complete regulators description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the **Federal Register** expensive and impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed by publishers of aeronautical materials. The advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA forms is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the, associated Takeoff Minimums and ODPs. This amendment also identifies the airport and its location, the procedure, and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as contained in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPS and Takeoff Minimums and ODPS, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPS contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPS and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedures before adopting these SIAPS, Takeoff Minimums and ODPs are impracticable and contrary to the public interest and,

where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on May 28, 2010.

John M. Allen,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0902 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 1 JUL 2010

Tucson, AZ, Tucson Intl, VOR/DME OR TACAN RWY 29R, Amdt 2D
Paxton, IL, Paxton, RNAV (GPS) RWY 18, Orig
Paxton, IL, Paxton, Takeoff Minimums and Obstacle DP, Amdt 1
Paxton, IL, Paxton, VOR RWY 18, Amdt 2
Butte, MT, Bert Mooney, RNAV (GPS) Y RWY 15, Orig-A
Youngstown, OH, Youngstown Elser Metro, Takeoff Minimums and Obstacle DP, Amdt 1
Pickens, SC, Pickens County, RNAV (GPS) RWY 23, Orig-A

Effective 29 JUL 2010

Cold Bay, AK, Cold Bay, LOC/DME BC RWY 32, Amdt 9A
Savoonga, AK, Savoonga, GPS RWY 5, Orig, CANCELLED
Savoonga, AK, Savoonga, RNAV (GPS) RWY 5, Orig
Savoonga, AK, Savoonga, RNAV (GPS) RWY 23, Orig
Savoonga, AK, Savoonga, Takeoff Minimums and Obstacle DP, Amdt 1
Savoonga, AK, Savoonga, VOR RWY 23, Amdt 1
Savoonga, AK, Savoonga, VOR/DME RWY 23, Amdt 1
Centre, AL, Centre Muni, Takeoff Minimums and Obstacle DP, CANCELLED
Centre, AL, Centre Muni, VOR/DME OR GPS RWY 27, Amdt 1A, CANCELLED
Dothan, AL, Dothan Rgnl, RNAV (GPS) RWY 18, Amdt 1
Dothan, AL, Dothan Rgnl, RNAV (GPS) RWY 36, Orig
Huntsville, AL, Huntsville Intl-Carl T Jones Field, ILS OR LOC RWY 18R, ILS RWY 18R (CAT II), Amdt 24A
Muscle Shoals, AL, Northwest Alabama Rgnl, ILS OR LOC RWY 29, Amdt 5
Muscle Shoals, AL, Northwest Alabama Rgnl, RNAV (GPS) RWY 11, Amdt 1
Muscle Shoals, AL, Northwest Alabama Rgnl, RNAV (GPS) RWY 29, Amdt 1
Pago Pago, AS, American Samoa, Pago Pago Intl, VOR–D, Amdt 6
Clifton/Morenci, AZ, Greenlee County, SAN SIMON ONE Graphic Obstacle DP
Clifton/Morenci, AZ, Greenlee County, Takeoff Minimums and Obstacle DP, Orig
Mesa, AZ, Falcon Field, MESA ONE Graphic Obstacle DP
Safford, AZ, Safford Rgnl, SAFFORD ONE Graphic Obstacle DP
Springerville, AZ, Springerville Muni, GPS RWY 21, Orig, CANCELLED
Springerville, AZ, Springerville Muni, RNAV (GPS) RWY 21, Orig
Tucson, AZ, Ryan Field, ALMON ONE Graphic Obstacle DP
Tucson, AZ, Ryan Field, Takeoff Minimums and Obstacle DP, Amdt 3
Meeker, CO, Meeker, RNAV (GPS) RWY 3, Amdt 1
Hartford, CT, Hartford-Brainard, Takeoff Minimums and Obstacle DP, Amdt 5
Fernandina Beach, FL, Fernandina Beach Muni, RADAR–1, Amdt 4A, CANCELLED
Gainesville, FL, Gainesville Rgnl, RADAR–1, Orig, CANCELLED
Jacksonville, FL, Craig Muni, RADAR–1, Amdt 1, CANCELLED
Milledgeville, GA, Baldwin County, NDB RWY 28, Amdt 3
Milledgeville, GA, Baldwin County, RNAV (GPS) RWY 10, Amdt 1
Milledgeville, GA, Baldwin County, RNAV (GPS) RWY 28, Amdt 1
Milledgeville, GA, Baldwin County, Takeoff Minimums and Obstacle DP, Amdt 1
Millen, GA, Millen, RNAV (GPS) RWY 17, Amdt 1
Millen, GA, Millen, RNAV (GPS) RWY 35, Orig
Clarinda, IA, Schenck Field, Takeoff Minimums and Obstacle DP, Amdt 1
Marshalltown, IA, Marshalltown Muni, GPS RWY 12, Orig-B, CANCELLED
Marshalltown, IA, Marshalltown Muni, RNAV (GPS) RWY 13, Orig
Marshalltown, IA, Marshalltown Muni, RNAV (GPS) RWY 31, Orig
Marshalltown, IA, Marshalltown Muni, Takeoff Minimum and Obstacle DP, Orig
Marshalltown, IA, Marshalltown Muni, VOR RWY 13, Amdt 2
Marshalltown, IA, Marshalltown Muni, VOR RWY 31, Amdt 2
Bonners Ferry, ID, Boundary County, KARPS ONE Graphic Obstacle DP
Bonners Ferry, ID, Boundary County, RNAV (GPS) RWY 2, Orig
Bonners Ferry, ID, Boundary County, Takeoff Minimums and Obstacle DP, Orig
Belleville, IL, Scott AFB/Midamerica, Takeoff Minimums and Obstacle DP, Orig
Atwoods, KS, Atwood-Rawlins County City-County, Takeoff Minimums and Obstacle DP, Orig
Benton, KS, Lloyd Stearman Field, Takeoff Minimum and Obstacle DP, Orig
Junction City, KS, Freeman Field, NDB–B, Amdt 5
Hammond, LA, Hammond Northshore Rgnl, ILS OR LOC RWY 18, Amdt 4
Hammond, LA, Hammond Northshore Rgnl, RNAV (GPS) RWY 18, Amdt 1
Hammond, LA, Hammond Northshore Rgnl, RNAV (GPS) RWY 31, Amdt 1
Hammond, LA, Hammond Northshore Rgnl, RNAV (GPS) RWY 36, Orig
Hammond, LA, Hammond Northshore Rgnl, VOR RWY 18, Amdt 4
Hammond, LA, Hammond Northshore Rgnl, VOR RWY 31, Amdt 5
Canby, MN, Myers Field, Takeoff Minimums and Obstacle DP, Amdt 1
Ava, MO, Ava Bill Martin Memorial, NDB RWY 31, Amdt 1, CANCELLED
Perryville, MO, Perryville Muni, GPS RWY 2, Orig-A, CANCELLED
Perryville, MO, Perryville Muni, GPS RWY 20, Orig-A, CANCELLED
Perryville, MO, Perryville Muni, RNAV (GPS) RWY 2, Orig
Perryville, MO, Perryville Muni, RNAV (GPS) RWY 20, Orig
Perryville, MO, Perryville Muni, Takeoff Minimums and Obstacle DP, Orig
Perryville, MO, Perryville Muni, VOR/DME–A, Amdt 5
Perryville, MO, Perryville Muni, VOR/DME RNAV RWY 20, Amdt 3A, CANCELLED
Columbus, MS, Columbus-Lowndes County, RNAV (GPS) RWY 18, Orig-A
Bozeman, MT, Gallatin Field, BOZEMAN TWO Graphic Obstacle DP
Bozeman, MT, Gallatin Field, ILS OR LOC RWY 12, Amdt 7
Bozeman, MT, Gallatin Field, RNAV (GPS)-A, Amdt 1
Bozeman, MT, Gallatin Field, RNAV (GPS) Y RWY 12, Orig
Bozeman, MT, Gallatin Field, RNAV (RNP) RWY 30, Orig
Bozeman, MT, Gallatin Field, RNAV (RNP) Z RWY 12, Orig
Bozeman, MT, Gallatin Field, VOR RWY 12, Amdt 14

Bozeman, MT, Gallatin Field, VOR/DME RWY 12, Amdt 3
Sidney, MT, Sidney-Richland Muni, NDB RWY 1, Amdt 3
Sidney, MT, Sidney-Richland Muni, NDB RWY 19, Amdt 4
Sidney, MT, Sidney-Richland Muni, RNAV (GPS) RWY 1, Amdt 1
Sidney, MT, Sidney-Richland Muni, RNAV (GPS) RWY 19, Amdt 1
Sidney, MT, Sidney-Richland Muni, Takeoff Minimums and Obstacle DP, Amdt 4
Thedford, NE, Thomas County, RNAV (GPS) RWY 11, Amdt 2
Thedford, NE, Thomas County, RNAV (GPS) RWY 29, Amdt 2
Farmington, NM, Four Corners Rgnl, RNAV (GPS) RWY 25, Amdt 1
Farmington, NM, Four Corners Rgnl, Takeoff Minimums and Obstacle DP, Amdt 1
Akron, NY, Akron, RNAV (GPS) RWY 7, Amdt 1
Akron, NY, Akron, RNAV (GPS) RWY 25, Amdt 1
Durant, OK, Eaker Field, RNAV (GPS) RWY 17, Amdt 1
Durant, OK, Eaker Field, RNAV (GPS) RWY 35, Amdt 1
Durant, OK, Eaker Field, Takeoff Minimums and Obstacle DP, Orig
El Reno, OK, El Reno Rgnl, NDB RWY 35, Amdt 3C, CANCELLED
Henryetta, OK, Henryetta Muni, Takeoff Minimums and Obstacle DP, Amdt 3
Oklahoma City, OK, Wiley Post, GPS RWY 35R, Orig, CANCELLED
Oklahoma City, OK, Wiley Post, ILS OR LOC RWY 17L, Amdt 11
Oklahoma City, OK, Wiley Post, RNAV (GPS) RWY 17L, Amdt 1
Oklahoma City, OK, Wiley Post, RNAV (GPS) RWY 35R, Orig
Klamath Falls, OR, Klamath Falls, ILS OR LOC/DME RWY 32, Amdt 20
Klamath Falls, OR, Klamath Falls, RNAV (GPS) RWY 14, Amdt 1
Klamath Falls, OR, Klamath Falls, RNAV (GPS) RWY 32, Orig
Klamath Falls, OR, Klamath Falls, Takeoff Minimums and Obstacle DP, Amdt 5
Klamath Falls, OR, Klamath Falls, VOR/DME OR TACAN RWY 14, Amdt 5
Klamath Falls, OR, Klamath Falls, VOR/DME OR TACAN RWY 32, Amdt 5
Klamath Falls, OR, Klamath Falls, VOR OR GPS–B, Amdt 3, CANCELLED
Williamsport, PA, Williamsport Rgnl, Takeoff Minimums and Obstacle DP, Amdt 4
Beaufort, SC, Beaufort County, RNAV (GPS) RWY 7, Amdt 1
Beaufort, SC, Beaufort County, RNAV (GPS) RWY 25, Amdt 1
Bennettsville, SC, Marlboro County Jetport-H E Avent Field, NDB RWY 7, Amdt 5
Bennettsville, SC, Marlboro County Jetport-H E Avent Field, RNAV (GPS) RWY 7, Amdt 1
Bennettsville, SC, Marlboro County Jetport-H E Avent Field, RNAV (GPS) RWY 25, Amdt 1
Bennettsville, SC, Marlboro County Jetport-H E Avent Field, Takeoff Minimums and Obstacle DP, Amdt 1
Bennettsville, SC, Marlboro County Jetport-H E Avent Field, VOR/DME–A, Amdt 5
Lebanon, TN, Lebanon Muni, Takeoff Minimums and Obstacle DP, Amdt 1
Baytown, TX, Baytown, RNAV (GPS) RWY 14, Orig
Baytown, TX, Baytown, RNAV (GPS) RWY 32, Orig
Baytown, TX, Baytown, Takeoff Minimum and Obstacle DP, Orig
Center, TX, Center Muni, GPS RWY 17, Amdt 1A, CANCELLED
Center, TX, Center Muni, GPS RWY 35, Orig-A, CANCELLED
Center, TX, Center Muni, RNAV (GPS) RWY 17, Orig
Center, TX, Center Muni, RNAV (GPS) RWY 35, Orig
Center, TX, Center Muni, Takeoff Minimum and Obstacle DP, Orig
Childress, TX, Childress Muni, Takeoff Minimums and Obstacle DP, Amdt 1
Corpus Christi, TX, Corpus Christi Intl, RNAV (GPS) RWY 35, Amdt 1
Giddings, TX, Giddings-Lee County, GPS RWY 17, Orig, CANCELLED
Giddings, TX, Giddings-Lee County, GPS RWY 35, Orig, CANCELLED
Giddings, TX, Giddings-Lee County, RNAV (GPS) RWY 17, Orig
Giddings, TX, Giddings-Lee County, RNAV (GPS) RWY 35, Orig
Giddings, TX, Giddings-Lee County, Takeoff Minimum and Obstacle DP, Orig
Hebbronville, TX, Jim Hogg County, GPS RWY 13, Amdt 1A, CANCELLED
Hebbronville, TX, Jim Hogg County, NDB RWY 13, Amdt 4
Hebbronville, TX, Jim Hogg County, RNAV (GPS) RWY 13, Orig
Hebbronville, TX, Jim Hogg County, Takeoff Minimum and Obstacle DP, Orig
Kingsville, TX, Kleberg County, GPS RWY 13, Orig-A, CANCELLED
Kingsville, TX, Kleberg County, RNAV (GPS) RWY 13, Orig
Kingsville, TX, Kleberg County, Takeoff Minimum and Obstacle DP, Orig
La Grange, TX, Fayette Rgnl Air Center, RNAV (GPS) RWY 16, Amdt 1A
La Grange, TX, Fayette Rgnl Air Center, RNAV (GPS) RWY 34, Amdt 1A
Odessa, TX, Odessa-Schlemeyer Field, GPS RWY 20, Orig, CANCELLED
Odessa, TX, Odessa-Schlemeyer Field, GPS–B, Orig, CANCELLED
Odessa, TX, Odessa-Schlemeyer Field, NDB RWY 20, Amdt 5
Odessa, TX, Odessa-Schlemeyer Field, RNAV (GPS) RWY 11, Orig
Odessa, TX, Odessa-Schlemeyer Field, RNAV (GPS) RWY 20, Orig
Odessa, TX, Odessa-Schlemeyer Field, RNAV (GPS) RWY 29, Orig
Seminole, TX, Gaines County, Takeoff Minimum and Obstacle DP, Orig
Vernon, TX, Wilbarger County, NDB RWY 20, Amdt 1
Vernon, TX, Wilbarger County, RNAV (GPS) RWY 2, Orig
Vernon, TX, Wilbarger County, RNAV (GPS) RWY 20, Orig
Vernon, TX, Wilbarger County, Takeoff Minimum and Obstacle DP, Orig
Wheeler, TX, Wheeler Muni, Takeoff Minimum and Obstacle DP, Orig
Wise, VA, Lonesome Pine, Takeoff Minimums and Obstacle DP, Amdt 3
Lyndonville, VT, Caledonia County, RNAV (GPS) RWY 2, Orig-A
Walla Walla, WA, Walla Walla Rgnl, ILS OR LOC/DME Z RWY 20, Orig
Walla Walla, WA, Walla Walla Rgnl, ILS OR LOC Y RWY 20, Amdt 9
Wenatchee, WA, Pangborn Memorial, RNAV (RNP) RWY 12, Orig

[FR Doc. 2010–13573 Filed 6–8–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

14 CFR Part 97

[Docket No. 30728; Amdt. No. 3377]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective June 9, 2010. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 9, 2010.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169; or

4. 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.*

Availability—All SIAPs are available online free of charge. Visit *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Harry J. Hodges, Flight Procedure Standards Branch (AFS–420) Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (*Mail Address:* P.O. Box 25082, Oklahoma City, OK 73125) *telephone:* (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of Title 14 of the Code of Federal Regulations.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAP and the corresponding effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on May 28, 2010.

John M. Allen,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

Effective Upon Publication

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
1–Jul–10	CO	LAMAR	LAMAR MUNI	0/0468	5/18/10	VOR/DME RWY 36, AMDT 1A
1–Jul–10	CO	LAMAR	LAMAR MUNI	0/0469	5/18/10	VOR RWY 18, AMDT 10A
1–Jul–10	OR	LA GRANDE	LA GRANDE/UNION COUNTY.	0/0738	5/18/10	RNAV (GPS) RWY 16, ORIG
1–Jul–10	AZ	PHOENIX	PHOENIX SKY HARBOR INTL.	0/0955	5/18/10	ILS OR LOC RWY 7L, AMDT 10C
1–Jul–10	WA	SEATTLE	BOEING FIELD/ KING COUNTY INTL.	0/0957	5/18/10	ILS RWY 31L, AMDT 1
1–Jul–10	AZ	WINDOW ROCK.	WINDOW ROCK	0/0964	5/18/10	RNAV (GPS) RWY 2, ORIG–A
1–Jul–10	AZ	WINDOW ROCK.	WINDOW ROCK	0/0965	5/18/10	RNAV (GPS) B, ORIG–A

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
1–Jul–10	OR	THE DALLES	COLUMBIA GORGE REGIONAL/THE DALLES MUNI.	0/5531	5/18/10	TAKEOFF MINIMUMS AND OBSTACLE DP, AMDT 2
1–Jul–10	CA	WILLOWS	WILLOWS–GLENN COUNTY.	0/9850	5/18/10	TAKEOFF MINIMUMS AND OBSTACLE DP, AMDT 1
29–Jul–10	NY	DUNKIRK	CHAUTAUQUA COUNTY/DUNKIRK.	0/1647	5/25/10	VOR RWY 6, AMDT 2
29–Jul–10	NY	DUNKIRK	CHAUTAUQUA COUNTY/DUNKIRK.	0/1648	5/25/10	VOR RWY 24, AMDT 7
29–Jul–10	MS	INDIANOLA ..	INDIANOLA MUNI ..	0/1932	5/24/10	VOR/DME A, AMDT 9
29–Jul–10	AL	CLANTON	CHILTON COUNTY	0/1945	5/24/10	NDB OR GPS RWY 26, ORIG

[FR Doc. 2010–13586 Filed 6–8–10; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 375

[Docket No. RM10–1–000; Order No. 736]

Delegations to Office of Energy Policy and Innovation

May 28, 2010.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: This final rule revises the Commission's regulations to delegate authority to the newly established Office of Energy Policy and Innovation to allow that office to process routine, non-controversial matters efficiently.

DATES: *Effective Date:* This rule will become effective June 9, 2010.

FOR FURTHER INFORMATION CONTACT: Wilbur Miller, 888 First Street, NE., Washington, DC 20426, (202) 502–8953, *wilbur.miller@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Before Commissioners: Jon Wellinghoff, Chairman; Marc Spitzer, Philip D. Moeller, and John R. Norris.

Final Rule

I. Discussion

1. On April 16, 2009, the Commission announced the creation of the Office of Energy Policy and Innovation (OEPI) to provide leadership in the development and formulation of policies and regulations to address emerging issues affecting wholesale and interstate energy markets. To enable OEPI to carry out its functions as efficiently as possible, this Final Rule adds a new section to the Commission's regulations, 18 CFR 375.315, to delegate to OEPI the authority necessary to process routine matters. These delegations are intended to apply to uncontested, non-controversial matters.

II. Information Collection Statement

2. The Office of Management and Budget's (OMB) regulations require that OMB approve certain information collection requirements imposed by agency rule.[1] This Final Rule does not contain information reporting requirements and is not subject to OMB approval.

III. Environmental Analysis

3. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the quality of the human environment.[2] Issuance of this Final Rule does not represent a major federal action having a significant adverse effect on the quality of the human environment under the Commission's regulations implementing the National Environmental Policy Act. Part 380 of the Commission's regulations lists exemptions to the requirement to draft an Environmental Analysis or Environmental Impact Statement. Included is an exemption for procedural, ministerial or internal administrative actions.[3] This rulemaking is exempt under that provision.

IV. Regulatory Flexibility Act

4. The Regulatory Flexibility Act of 1980 (RFA)[4] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. This final rule concerns matters of internal agency procedure and the Commission therefore certifies that it will not have such an impact. An analysis under the RFA is not required.

V. Document Availability

5. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

6. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

7. User assistance is available for eLibrary and the Commission's Web site during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or e-mail at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. E-mail the Public Reference Room at *public.referenceroom@ferc.gov.*

VI. Effective Date and Congressional Notification

8. These regulations are effective immediately upon publication in the **Federal Register**. In accordance with 5 U.S.C. 553(d)(3), the Commission finds that good cause exists to make this Final Rule effective immediately. It concerns only matters of internal operations and will not affect the rights of persons appearing before the Commission. There is therefore no reason to make this rule effective at a later time.

9. The provisions of 5 U.S.C. 801 regarding Congressional review of Final Rules do not apply to this Final Rule,

[1] 5 CFR part 1320.

[2] *Regulations Implementing the National Environmental Policy Act,* Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987).

[3] 18 CFR 380.4(1) and (5).

[4] 5 U.S.C. 601–12.

because this Final Rule concerns agency procedure and practice and will not substantially affect the rights of non-agency parties.

10. The Commission is issuing this as a Final Rule without a period for public comment. Under 5 U.S.C. 553(b), notice and comment procedures are unnecessary where a rulemaking concerns only agency procedure and practice, or where the agency finds that notice and comment is unnecessary. This rule concerns only matters of internal agency procedure and will not significantly affect regulated entities or the general public.

List of Subjects in 18 CFR Part 375

Authority delegations (government agencies), Seals and insignia, Sunshine Act.

By the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

■ In consideration of the foregoing, the Commission amends part 375, chapter I, title 18, Code of Federal Regulations, as follows.

PART 375—THE COMMISSION

■ 1. The authority citation for part 375 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–825r, 2601–2645; 42 U.S.C. 7101–7352, 16451–16463.

■ 2. Add new § 375.315 to read as follows:

§ 375.315 Delegations to the Director of the Office of Energy Policy and Innovation.

The Commission authorizes the Director or the Director's designee to:

(a) Take appropriate action on:

(1) Any notice of intervention or motion to intervene, filed in an uncontested proceeding processed by the Office of Energy Policy and Innovation; and

(2) Applications for extensions of time to file required filings, reports, data and information and to perform other acts required at or within a specific time by any rule, regulation, license, permit, certificate, or order by the Commission.

(b) Undertake the following actions:

(1) Issue reports for public information purposes. Any report issued without Commission approval must:

(i) Be of a noncontroversial nature, and

(ii) Contain the statement, "This report does not necessarily reflect the views of the Commission," in bold face type on the cover;

(2) Issue and sign requests for additional information regarding applications, filings, reports and data processed by the Office of Energy Policy and Innovation; and

(3) Accept for filing, data and reports required by Commission regulations, rules, or orders, or presiding officers' initial decisions upon which the Commission has taken no further action, if such filings are in compliance with such regulations, rules, orders or decisions and, when appropriate, notify the filing party of such acceptance.

[FR Doc. 2010–13632 Filed 6–8–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 106, 107, 312, and 803

[Docket No. FDA–2010–N–0010]

Change of Contact Information; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to reflect changes in the contact information for the FDA Emergency Call Center. This action is editorial in nature and is intended to improve the accuracy of the agency's regulations.

DATES: This rule is effective June 11, 2010.

FOR FURTHER INFORMATION CONTACT: Wayne Gorski, Office of Crisis Management, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, rm. 2300, Silver Spring, MD 20993–0002, 301–796–8248.

SUPPLEMENTARY INFORMATION: FDA is amending its regulations in 21 CFR parts 106, 107, 312, and 803 to reflect a change in the telephone and fax numbers for the FDA Emergency Call Center. The phone number will change from 301–443–1240 to 866–300–4374 on June 11, 2010. The fax number will change from 301–827–3333 to 301–847–8544. We have also amended the regulations to reflect that the new phone and fax numbers are for the "FDA Emergency Call Center".

Publication of this document constitutes final action on this change under the Administrative Procedure Act (5 U.S.C. 553). Notice and public procedures are unnecessary because FDA is merely updating nonsubstantive content.

List of Subjects

21 CFR Part 106

Food grades and standards, Infants and children, Nutrition, Reporting and recordkeeping requirements.

21 CFR Part 107

Food labeling, Infants and children, Nutrition, Reporting and recordkeeping requirements, Signs and symbols.

21 CFR Part 312

Drugs, Exports, Imports, Investigations, Labeling, Medical research, Reporting and recordkeeping requirements, Safety.

21 CFR Part 803

Imports, Medical devices, Reporting and recordkeeping requirements.

■ Therefore under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR Chapter I is amended as follows:

PART 106—INFANT FORMULA QUALITY CONTROL PROCEDURES

■ 1. The authority citation for 21 CFR part 106 continues to read as follows:

Authority: 21 U.S.C. 321, 350a, 371.

■ 2. Section 106.120 is amended by revising paragraph (b) to read as follows:

§ 106.120 New formulations and reformulations.

* * * * *

(b) The manufacturer shall promptly notify the Food and Drug Administration when the manufacturer has knowledge (as defined in section 412(c)(2) of the act) that reasonably supports the conclusion that an infant formula that has been processed by the manufacturer and that has left an establishment subject to the control of the manufacturer may not provide the nutrients required by section 412(g) of the act and by regulations promulgated under section 412(a)(2) of the act, or when there is an infant formula that is otherwise adulterated or misbranded and that may present risk to human health. This notification shall be made, by telephone, to the Director of the appropriate Food and Drug Administration district office specified in part 5, subpart M of this chapter. After normal business hours (8 a.m. to 4:30 p.m.), contact the FDA Emergency Call Center at 866–300–4374. The manufacturer shall send a followup written confirmation to the Center for Food Safety and Applied Nutrition (HFS–605), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, and to

the appropriate Food and Drug Administration district office specified in part 5, subpart M of this chapter.

PART 107—INFANT FORMULA

■ 3. The authority citation for 21 CFR part 107 continues to read as follows:

Authority: 21 U.S.C. 321, 343, 350a, 371.

■ 4. Section 107.50 is amended by revising paragraph (e)(2) to read as follows:

§ 107.50 Terms and conditions.

* * * * *

(e) * * *

(2) The manufacturer shall promptly notify FDA when the manufacturer has knowledge (as defined in section 412(c)(2) of the act) that reasonably supports the conclusion that an exempt infant formula that has been processed by the manufacturer and that has left an establishment subject to the control of the manufacturer may not provide the nutrients required by paragraph (b) or (c) of this section, or when there is an exempt infant formula that may be otherwise adulterated or misbranded and if so adulterated or misbranded presents a risk of human health. This notification shall be made, by telephone, to the Director of the appropriate FDA district office specified in part 5, subpart M of this chapter. After normal business hours (8 a.m. to 4:30 p.m.), contact the FDA Emergency Call Center at 866–300–4374. The manufacturer shall send a followup written confirmation to the Center for Food Safety and Applied Nutrition (HFS–605), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, and to the appropriate FDA district office specified in part 5, subpart M of this chapter.

■ 5. Section 107.240 is amended by revising paragraph (b) to read as follows:

§ 107.240 Notification requirements.

* * * * *

(b) *Method of notification.* The notification made pursuant to § 107.240(a) shall be made, by telephone, to the Director of the appropriate Food and Drug Administration district office listed in part 5, subpart M of this chapter. After normal business hours (8 a.m. to 4:30 p.m.), contact the FDA Emergency Call Center at 866–300–4374. The manufacturer shall send written confirmation of the notification to the Center for Food Safety and Applied Nutrition (HFS–605), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, and to the appropriate Food and Drug Administration district office listed in part 5, subpart M of this chapter.

* * * * *

PART 312—INVESTIGATIONAL NEW DRUG APPLICATION

■ 6. The authority citation for 21 CFR part 312 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 360bbb, 371; 42 U.S.C. 262.

■ 7. Section 312.310 is amended by revising paragraph (d)(1) to read as follows:

§ 312.310 Individual patients, including for emergency use.

* * * * *

(d) * * *

(1) Emergency expanded access use may be requested by telephone, facsimile, or other means of electronic communications. For investigational biological drug products regulated by the Center for Biologics Evaluation and Research, the request should be directed to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, 301–827–1800 or 1–800–835–4709, e-mail: *ocod@fda.hhs.gov*. For all other investigational drugs, the request for authorization should be directed to the Division of Drug Information, Center for Drug Evaluation and Research, 301–796–3400, e-mail: *druginfo@fda.hhs.gov*. After normal working hours (8 a.m. to 4:30 p.m.), the request should be directed to the FDA Emergency Call Center, 866–300–4374, e-mail: *emergency.operations@fda.hhs.gov*.

* * * * *

PART 803—MEDICAL DEVICE REPORTING

■ 8. The authority citation for 21 CFR part 803 continues to read as follows:

Authority: 21 U.S.C. 352, 360, 360i, 360j, 371, 374.

■ 9. Section 803.12 is amended by revising paragraph (c) to read as follows:

§ 803.12 Where and how do I submit reports and additional information?

* * * * *

(c) If an entity is confronted with a public health emergency, this can be brought to FDA's attention by contacting the FDA Office of Emergency Operations, Office of Crisis Management, Office of the Commissioner, at 866–300–4374, followed by the submission of an e-mail to *emergency.operations@fda.hhs.gov* or a fax report to 301–847–8544.

* * * * *

Dated: June 4, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–13820 Filed 6–8–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9485]

RIN 1545–BF28

Contributed Property

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations under section 704(c) of the Internal Revenue Code (Code) providing that the section 704(c) anti-abuse rule takes into account the tax liabilities of both the partners in a partnership and certain direct and indirect owners of such partners. These final regulations further provide that a section 704(c) allocation method cannot be used to achieve tax results inconsistent with the intent of subchapter K of the Code. The final regulations affect partnerships and their partners.

DATES: *Effective Date:* These final regulations are effective June 9, 2010.

Applicability Date: These final regulations are applicable for taxable years beginning after June 9, 2010.

FOR FURTHER INFORMATION CONTACT: Bryan A. Rimmke at (202) 622–3050 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 1 under section 704 of the Internal Revenue Code (Code). On May 19, 2008, a notice of proposed rulemaking (REG–100798–06, 2008–23 IRB 1135) was published in the **Federal Register** (73 FR 28765) in response to the Joint Committee on Taxation's recommendation that the partnership rules be strengthened to ensure that the allocation rules in the regulations under section 704(c) are not used to generate unwarranted benefits. *See The Report of Investigation of Enron Corporation and Related Entities Regarding Federal Tax and Compensation Issues, and Policy Recommendations,* (JCS–3–03) February 2003 at pg. 220. Because no requests to speak were submitted by August 18, 2008, no public hearing was held. Written comments, however, were

received in response to the notice of proposed rulemaking. After consideration of these comments, the proposed regulations are adopted without change by this Treasury decision.

Summary of Comments and Explanation of Provisions

The comments on the proposed regulations requested that examples be given to specifically describe the types of transactions to which these regulations apply. Additionally, the comments requested examples to describe the types of transactions which would not be abusive under this regulation but would be abusive under the general subchapter K anti-abuse rule found in § 1.701–2. In light of the fact that these regulations are anti-abuse provisions and the factually intensive analysis needed to determine whether this regulation is applicable, the Treasury Department and the IRS decline to adopt these comments.

Additional comments requested that the Treasury Department and the IRS consider both a de minimis partner rule for direct partners similar to § 1.704–1(b)(2)(iii) and a rule for indirect partners where the owners would need to be related to the look-through entity within the meaning of sections 267 or 707 in order to be considered indirect partners for the purposes of the regulation. For purposes of § 1.704–1(b)(2)(iii), a de minimis partner is any partner, including a look-through entity, that owns less than 10 percent of the capital and profits of a partnership, and who is allocated less than 10 percent of each partnership item. The Treasury Department and the IRS have determined that neither a de minimis partner provision nor a related partner provision for indirect partners would conform to the intent of this anti-abuse provision and therefore decline to adopt such rules.

This Treasury decision adopts the proposed regulations without substantive change. Accordingly, the regulations amend § 1.704–3(a)(10) to provide that, for purposes of applying the anti-abuse rule, both direct and indirect partners are considered. The final regulations provide that an indirect partner is any direct or indirect owner of a partnership, S corporation, or controlled foreign corporation (as defined in section 957(a) or 953(c)), or direct or indirect beneficiary of a trust or estate, that is a partner in the partnership, and any consolidated group of which the partner in the partnership is a member (within the meaning of § 1.1502–1(h)). However, an owner of a controlled foreign corporation is treated as an indirect partner only with respect to the allocation of items that enter into the computation of a United States shareholder's inclusion under section 951(a) with respect to the controlled foreign corporation, enter into any person's income attributable to a United States shareholder's inclusion under section 951(a) with respect to the controlled foreign corporation, or would enter into the computations described in this paragraph if such items were allocated to the controlled foreign corporation.

These final regulations further provide that the principles of section 704(c), together with the allocation methods described in § 1.704–3, paragraphs (b), (c) and (d), apply only with respect to the contributions of property to the partnership. In that regard, the anti-abuse rule of § 1.701–2(b) provides that, if a partnership is formed or availed of in connection with a transaction a principal purpose of which is to reduce substantially the present value of the partners' Federal tax liability in a manner inconsistent with the intent of subchapter K, the IRS may recast the transaction for Federal tax purposes as appropriate to achieve tax results that are consistent with the intent of subchapter K. Thus, even though a transaction may satisfy the literal words of the statute or regulations, the IRS may recast a transaction as appropriate to avoid tax results that are inconsistent with the intent of subchapter K, including but not limited to: (i) Disregarding purported partnerships, in whole or part, so that partnership assets are treated as owned by the partner; (ii) disregarding one or more contributions or (iii) disregarding one or more purported partners. The final regulations also provide that, in determining if a purported contribution of property to a partnership should be recast to avoid results that are inconsistent with subchapter K, one factor that may be relevant is the use of the remedial method in which allocations of remedial items of income, gain, loss or deduction are made to one partner and allocations of offsetting remedial items are made to a related partner.

Effective/Applicability Date

These regulations apply to taxable years beginning after June 9, 2010. No inference should be drawn from this effective date with respect to prior law.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these final regulations is Bryan A. Rimmke, Office of the Associate Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.704–3 is amended by:

■ 1. Adding four sentences to paragraph (a)(1) at the end of the last sentence and revising paragraph (a)(10).

■ 2. Revising the first sentence of paragraph (f) and adding one sentence to the end of the paragraph.

The revisions and additions read as follows:

§ 1.704–3 Contributed property.

(a) * * * (1) * * * The principles of this paragraph (a)(1), together with the methods described in paragraphs (b), (c) and (d) of this section, apply only to contributions of property that are otherwise respected. See for example § 1.701–2. Accordingly, even though a partnership's allocation method may be described in the literal language of paragraphs (b), (c) or (d) of this section, based on the particular facts and circumstances, the Commissioner can recast the contribution as appropriate to avoid tax results inconsistent with the intent of subchapter K. One factor that

may be considered by the Commissioner is the use of the remedial allocation method by related partners in which allocations of remedial items of income, gain, loss or deduction are made to one partner and the allocations of offsetting remedial items are made to a related partner.

* * * * *

(10) *Anti-abuse rule*—(i) *In general.* An allocation method (or combination of methods) is not reasonable if the contribution of property (or event that results in reverse section 704(c) allocations) and the corresponding allocation of tax items with respect to the property are made with a view to shifting the tax consequences of built-in gain or loss among the partners in a manner that substantially reduces the present value of the partners' aggregate tax liability. For purposes of this paragraph (a)(10), all references to the partners shall include both direct and indirect partners.

(ii) *Definition of indirect partner.* An *indirect partner* is any direct or indirect owner of a partnership, S corporation, or controlled foreign corporation (as defined in section 957(a) or 953(c)), or direct or indirect beneficiary of a trust or estate, that is a partner in the partnership, and any consolidated group of which the partner in the partnership is a member (within the meaning of § 1.1502–1(h)). An owner (whether directly or through tiers of entities) of a controlled foreign corporation is treated as an indirect partner only with respect to allocations of items of income, gain, loss, or deduction that enter into the computation of a United States shareholder's inclusion under section 951(a) with respect to the controlled foreign corporation, enter into any person's income attributable to a United States shareholder's inclusion under section 951(a) with respect to the controlled foreign corporation, or would enter into the computations described in this sentence if such items were allocated to the controlled foreign corporation.

* * * * *

(f) *Effective/Applicability Dates.* With the exception of paragraphs (a)(1), (a)(8)(ii), (a)(8)(iii), (a)(10), and (a)(11) of this section, this section applies to properties contributed to a partnership and to restatements pursuant to § 1.704–1(b)(2)(iv)(f) on or after December 21, 1993. * * * Paragraphs (a)(1) and (a)(10) of this section are applicable for taxable years beginning after June 9, 2010.

Approved: May 28, 2010.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

Michael Mundaca,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2010–13790 Filed 6–8–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2010–0435]

RIN 1625–AA08

Special Local Regulation; Hydroplane Exhibition, Detroit River, Detroit, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard will enforce a temporary special local regulation on the Detroit River, Detroit, Michigan from June 18, 2010 to June 20, 2010. This special local regulation is intended to restrict vessels from portions of the Detroit River during the Hydroplane Exhibition. This special local regulation is necessary to protect spectators and vessels from the hazards associated with powerboat races.

DATES: This regulation is effective from 3 p.m. on June 18, 2010, to 5 p.m. on June 20, 2010.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2010–0435 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0435 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 CDR Joseph Snowden, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568–9508, e-mail *Joseph.H.Snowden@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 permit application for the Hydroplane Exhibition event was not received by the Coast Guard in time to publish an NPRM followed by a final rule before the effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of vessels during the race, and immediate action is necessary to prevent possible loss of life and property. The Coast Guard has not received any complaints or negative comments previously with regard to events of this type and duration.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register.** Delaying this rule would be contrary to the public interest of ensuring the safety of vessels during the construction, and immediate action is necessary to prevent possible loss of life and property. The Coast Guard has not received any complaints or negative comments previously with regard to events of this type and duration.

Background and Purpose

This temporary special local regulation is necessary to ensure the safety of vessels and spectators from hazards associated with a powerboat race. The Captain of the Port Detroit has determined that powerboat races in close proximity to watercraft and waterfront structures pose a significant risk to public safety and property. The likely combination of large numbers of recreational vessels, powerboats traveling at high speeds, and large numbers of spectators in close proximity to powerboats on the water pose a significant risk of serious injuries or fatalities. Establishing a special local regulation around the location of the race course will help ensure the safety of persons and property at these events and help minimize the associated risks.

Discussion of Rule

This temporary special local regulation is necessary to ensure the safety of spectators and vessels during the Hydroplane Exhibition scheduled to take place during the Detroit River Days Festival. The Hydroplane Exhibition will occur between 3 p.m. and 5 p.m. on a daily basis on from June 18, 2010 to June 20, 2010. This regulation is effective from 3 p.m. on June 18, 2010, to 5 p.m. on June 20, 2010 and will be enforced daily between 3 p.m. to 5 p.m. during the effective period.

The area of the special local regulation will encompass all waters of the Detroit River, between Detroit, MI and Belle Isle, within an area bound on the east by a by a point on land at position 42°20.1′ N; 083°1.1′ W extending to the international border located at position 42°19.9′ N; 083°1.0′ W and a line running along the international border to position 42°19.5′ N; 083°2.2′ W and to a point on land at position 42°19.7′ N; 083°2.4′ W. All geographic coordinates are North American Datum of 1983 [NAD 83].

All persons and vessels shall comply with the instructions of the Captain of the Port Sector Detroit or designated on scene patrol personnel. Entry into, transiting, or anchoring within the special local regulation area is prohibited unless authorized by the Captain of the Port Detroit or his designated on scene representative. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

Regulatory Analyses

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

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the area of the special local regulation.

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 might be small entities: The owners and operators of vessels intending to transit or anchor in a portion of the Detroit River near Detroit, MI between 3 p.m. and 5 p.m. from June 18, 2010 to June 20, 2010.

This special local regulation will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will only be in effect for 2 hours a day during the effective dates that this rule will be enforced. The Coast Guard will give notice to the public via a Broadcast Notice to Mariners that the regulation is in effect.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such 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 that 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)(h) of the Instruction, because it involves the establishment of a special local regulation for a marine event in which an environmental analysis was conducted as part of the permit process for the marine event. 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

Marine Safety, Navigation (water), Reporting and Recordkeeping requirements, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. A new temporary § 100.T09–0435 is added to read as follows:

§ 100.T09–0435 Special Local Regulation; Hydroplane Exhibition; Detroit River; Detroit, MI.

(a) *Location.* The following is a temporary special local regulation area: All waters of the Detroit River, between Detroit, MI. and Belle Isle, within an area bound on the east by a point on land at position 42°20.1′ N.; 083°01.1′ W. extending to the international border located at position 42°19.9′ N.; 083°01.0′ W. and a line running along the international border to position 42°19.5′ N.; 083°02.2′ W. and to a point on land at position 42°19.7′ N.; 083°02.4′ W. (DATUM: NAD 83.)

(b) *Effective Period.* This regulation is effective from 3 p.m. on June 18, 2010 to 5 p.m. on June 20, 2010. This regulation will be enforced daily from 3 p.m. until 5 p.m. from June 18, 2010, to June 20, 2010.

(c) *Regulations.*

(1) In accordance with the general regulations in § 100.35 of this part, entry into, and transiting or anchoring within this special local regulation area is prohibited unless authorized by the Captain of the Port Sector Detroit, or his designated on-scene representative.

(2) This special local regulation area is closed to all vessel traffic, except as may be permitted by the Captain of the Port Detroit or his designated on-scene representative.

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

(4) Vessel operators desiring to enter or operate within the special local regulation area shall contact the Captain of the Port Sector Detroit or his on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the special local regulation area must comply with all directions given to them by the Captain of the Port or his on-scene representative.

Dated: May 24, 2010.

E.J. Marohn,

Commander, U.S. Coast Guard, Acting Captain of the Port Sector Detroit.

[FR Doc. 2010–13806 Filed 6–8–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2010–0406]

Drawbridge Operation Regulations; Newark Bay, NJ, Maintenance

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Lehigh Valley Bridge across Newark Bay, mile 4.3, at Newark, New Jersey. This deviation allows the bridge to remain in the closed position on seven nonconsecutive days to facilitate scheduled maintenance.

DATES: This deviation is effective from 9 a.m. on June 14, 2010 through 2 p.m. on July 26, 2010.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2010–0406 and are available online at *http://www.regulations.gov*, inserting USCG–2010–0406 in the "Keyword" and then clicking "Search". They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Mr. Joe Arca, Project Officer, First Coast Guard District, telephone (212) 668–7165. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Lehigh Valley Bridge, across Newark Bay at mile 4.3, at Newark, New Jersey, has a vertical clearance in the closed position of 35 feet at mean high water and 39 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.735.

The owner of the bridge, Conrail, requested a temporary deviation from the regulations to facilitate scheduled bridge maintenance, lift cable replacement at the bridge.

Under this temporary deviation the Lehigh Valley Bridge may remain in the closed position on Mondays, June 14, 21, 28, July 5, 12, 19, and 26, 2010 between 9 a.m. and 2 p.m. to facilitate lift cable replacement.

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

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

Dated: May 27, 2010.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 2010–13818 Filed 6–8–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–0225]

RIN 1625–AA00

Safety Zone; Milwaukee Air and Water Show, Lake Michigan, Milwaukee, WI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on Lake Michigan near Bradford Beach in Milwaukee, Wisconsin. This zone is intended to restrict vessels from a portion of Lake Michigan due to a large-scale air show and a fireworks display. This temporary safety zone is necessary to protect the surrounding public and their vessels from the hazards associated with a large-scale air show and fireworks display.

DATES: This regulation is effective from 12:01 a.m. on June 10, 2010 until 11:59 p.m. on June 13, 2010.

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–2010–0225 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0225 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 temporary rule, contact or e-mail Petty Officer Adam Kraft, U.S. Coast Guard Sector Lake Michigan, at (414) 747–7154 or *Adam.D.Kraft@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 April 14, 2010, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Safety Zone; Milwaukee Air and Water Show, Milwaukee, Wisconsin in the **Federal Register** (75 FR 19307). The Coast Guard received 0 comments on this proposed rule. No public meeting was 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.** Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this operation and immediate action is necessary to prevent possible loss of life or property from the dangers that are associated with a large scale air show and a fireworks display.

Basis and Purpose

This temporary safety zone is necessary to protect vessels from the hazards associated with the Milwaukee Air and Water show. The Captain of the Port, Sector Lake Michigan, has determined that the Milwaukee Air and Water show does pose significant risks to public safety and property. The likely combination of congested waterways and a large scale air show and a fireworks display could easily result in serious injuries or fatalities.

Discussion of Comments and Changes

No comments were received concerning this event.

Regulatory Analyses

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

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

This is not a significant regulatory action because the safety zone will be in effect for a minimal amount of time. Additionally, the zone is an area where the Coast Guard expects insignificant adverse impact to mariners from the zones' activation and vessels may still transit the area with the permission of the Captain of the Port, Sector Lake Michigan, or his or her designated on-scene representative.

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 might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of Lake Michigan, Milwaukee, WI between 12:01 p.m. on June 10, 2010 and 11:59 p.m. on June 13, 2010.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone will be in effect for only a few days and enforced for only a few hours. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of The Port, Sector Lake Michigan, to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

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 the establishment of a temporary safety zone.

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

■ 2. Add § 165.T09–0225 to read as follows

§ 165.T09–0225 Safety Zone; Milwaukee Air and Water show, Lake Michigan, Milwaukee, WI.

(a) *Location.* The following area is a temporary safety zone: A 4,000 yard by 1,000 yard rectangle located on Lake Michigan, parallel to Bradford Beach in Milwaukee, Wisconsin. The safety zone will encompass all U.S. waters of Lake Michigan bound by a line drawn from 43°02′57″ N, 087°52′53″ W; then north to 43°04′40″ N, 087°51′29″ W; then east to 43°04′33″ N, 087°51′12″ W; then south to 43°02′50″ N, 087°52′36″ W; then west returning to the point of origin (NAD 83).

(b) *Effective period.* This regulation is effective from 12:01 a.m. on June 10,

2010 through 11:59 p.m. on June 13, 2010. It will be enforced between 12 p.m. and 4 p.m. on June 10, 2010, between the hours of 2:30 p.m. and 9:30 p.m. on June 11, 2010, and again between the hours of 9 a.m. and 5 p.m. on June 12 and 13, 2010. The Captain of the Port, Sector Lake Michigan, or his or her on-scene representative may terminate this operation at anytime.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port, Sector Lake Michigan, or his or her on-scene representative.

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

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port, Sector Lake Michigan, or his or her on-scene representative to obtain permission to do so. The Captain of the Port, Sector Lake Michigan, or his or her on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port, Sector Lake Michigan, or his or her on-scene representative.

Dated: May 25, 2010.

L. Barndt,

Captain, U.S. Coast Guard, Captain of the Port, Sector Lake Michigan.

[FR Doc. 2010–13810 Filed 6–8–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–0126]

RIN 1625–AA00

Safety Zones; Annual Fireworks Events in the Captain of the Port Detroit Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending rule 33 CFR 165.941, establishing safety zones for annual fireworks events in the Captain of the Port Detroit area of responsibility. This rule adds safety zones for fireworks events. These safety zones are necessary to protect spectators and vessels from the hazards associated with fireworks displays.

DATES: This rule is effective June 9, 2010.

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–2010–0126 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0126 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 CDR Joseph Snowden, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568–9508, e-mail *Joseph.H.Snowden@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 April 14, 2010, we published a notice of proposed rulemaking (NPRM) entitled Safety Zones; Annual Fireworks Events in the Captain of the port Detroit Zone in the **Federal Register** (75 FR 19304). We received zero comments on the proposed rule. No public meeting was 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.** Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this operation and immediate action is necessary to prevent possible loss of life or property from the dangers that are associated with fireworks displays.

Basis and Purpose

This rule adds additional events not previously published in 33 CFR 165.941, Safety Zones; Annual Fireworks Events in the Captain of the Port Detroit Zone. These additional safety zones are necessary to protect vessels and spectators from the hazards associated with fireworks displays. Such hazards include obstructions to the waterway that may cause marine casualties, the explosive danger of fireworks and debris falling into the water that may cause death or serious bodily harm.

Discussion of Comments and Changes

We received zero comments regarding the proposed rule. There are no substantive changes to the rule as proposed by the NPRM published on April 14, 2010.

Regulatory Analyses

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

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This determination is based on the minimal time that vessels will be restricted from the zones and the zones are in areas where the Coast Guard expects insignificant adverse impact to mariners from the zones' activation.

The Coast Guard's use of these safety zones will be periodic, of short duration, and designed to minimize the impact on navigable waters. These safety zones will only be enforced immediately before, during, and after the time the events occur. Furthermore, these safety zones have been designed to

allow vessels to transit unrestricted to portions of the waterways not affected by the safety zones.

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 might be small entities: The owners or operators of vessels intending to transit or anchor in the areas designated as safety zones in subparagraphs (50) through (56) during the dates and times the safety zones are being enforced.

These safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule would be in effect for short periods of time, and only once per year, per zone. The safety zones have been designed to allow traffic to pass safely around the zone whenever possible and vessels will be allowed to pass through the zones with the permission of the Captain of the Port.

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). We received zero comments regarding the proposed rule.

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. We received zero comments regarding the proposed rule.

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 expenditure, we do discuss the effects of this rule elsewhere in this preamble. We received zero comments regarding the proposed rule.

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. We received zero comments regarding the proposed rule.

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. We received zero comments regarding the proposed rule.

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.

We received zero comments regarding the proposed rule.

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. We received zero comments regarding the proposed rule.

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. We received zero comments regarding the proposed rule.

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. We received zero comments regarding the proposed rule.

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 the establishment of safety zones. 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(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Amend § 165.941 by adding new paragraphs (a)(50) through (a)(56) to read as follows:

§ 165.941 Safety Zones; Annual Fireworks Events in the Captain of the Port Detroit Zone.

(a) * * *

(50) Celebrate America Fireworks, Grosse Pointe Farms, MI:

(i) *Location:* All waters of Lake St. Clair within a 500-foot radius of the fireworks launch site located at position 42°22′58″ N, 082°53′46″ W. (NAD 83). This area is located southeast of the Grosse Point Yacht Club.

(ii) *Expected date:* One evening during the third week in June. The exact dates and times for this event will be determined annually.

(51) Target Fireworks, Detroit, MI:

(i) *Location:* The following three areas are safety zones:

(A) The first safety zone area will encompass all waters of the Detroit River bounded by the arc of a circle with a 900-foot radius with its center in position 42°19′23″ N, 083°04′34″ W.

(B) The second safety zone area will encompass a portion of the Detroit River bounded on the South by the International Boundary line, on the West by 083°03′30″ W, on the North by the City of Detroit shoreline and on the East by 083°01′15″ W.

(C) The third safety zone will encompass a portion of the Detroit River bounded on the South by the International Boundary line, on the West by the Ambassador Bridge, on the North by the City of Detroit shoreline, and on the East by the downstream end of Belle Isle. The Captain of the Port Detroit has determined that vessels below 65 feet in length may enter this zone.

(ii) *Expected date:* One evening during the last week in June. The exact dates and times for this event will be determined annually.

(52) Sigma Gamma Association Fireworks, Grosse Pointe Farms, MI:

(i) *Location:* All waters of Lake St. Clair, within a 300-yard radius of the fireworks launch site located at position 42°27′ N, 082°52′ W (NAD 83) This position is located in the vicinity of Ford's Cove.

(ii) *Expected date:* One evening during the last week in June. The exact dates and times for this event will be determined annually.

(53) Southside Summer Fireworks, Port Huron, MI:

(i) *Location:* All waters of St. Clair River within a 300 yard radius of position 42°57′55″ N, 082°25′20″ W. This position is located on the shore of the St. Clair River in the vicinity of Oak and 3rd Street, Port Huron, MI. All geographic coordinates are North American Datum of 1983 (NAD 83).

(ii) *Expected date:* One evening during the last week in June. The exact dates and times for this event will be determined annually.

(54) Bay City Fireworks Festival, Bay City, MI:

(i) *Location:* All waters of the Saginaw River near Bay City, MI, from the Veteran's Memorial Bridge, located at position 43°35.8′ N; 083°53.6′ W, south approximately 1000 yards to the River Walk Pier, located at position 43°35.3′ N; 083°53.8′ W. All geographic coordinates are North American Datum of 1983 (NAD 83).

(ii) *Expected date:* Three evenings during the first week in July. The exact dates and times for this event will be determined annually.

(55) Toledo 4th of July Fireworks, Toledo, OH:

(i) *Location:* All waters of the Maumee River within a 300-yard radius of the fireworks launch site located at position 41°38′35″ N, 083°31′54″ W. All geographic coordinates are North American Datum of 1983 (NAD 83).

(ii) *Expected date:* One evening during the first week in July. The exact dates and times for this event will be determined annually.

(56) Toledo Labor Day Fireworks, Toledo, OH:

(i) *Location:* All waters of the Maumee River within a 300-yard radius of the fireworks launch site located at position 41°38′35″ N, 083°31′54″ W. All geographic coordinates are North American Datum of 1983 (NAD 83).

(ii) *Expected Date:* One evening during the first week in September. The exact dates and times for this event will be determined annually.

* * * * *

Dated: May 24, 2010.

E.J. Marohn,

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

[FR Doc. 2010–13805 Filed 6–8–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AN50

Copayments for Medications

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document affirms as final an interim final rule that froze through June 30, 2010, the copayment required by Department of Veterans Affairs (VA) regulations for certain outpatient medications. Under those regulations, the copayment amount must be increased based on the prescription drug component of the Medical Consumer Price Index (CPI–P), and the maximum annual copayment amount must be increased when the copayment is increased.

DATES: This final rule is effective June 9, 2010.

FOR FURTHER INFORMATION CONTACT: Roscoe Butler, Acting Director, Business Policy, Chief Business Office, 810 Vermont Avenue, Washington, DC 20420, 202–461–1586. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Under 38 U.S.C. 1722A(a), VA must require veterans to pay a $2 copayment for each 30-day supply of medication furnished on an outpatient basis for the treatment of a nonservice-connected disability or condition. Under 38 U.S.C. 1722A(b), VA "may," by regulation, increase that copayment and establish a maximum annual copayment (a "cap"). We have interpreted section 1722A(b) to mean that VA has discretion to determine the appropriate copayment amount and annual cap amount for medication

furnished on an outpatient basis for covered treatment, provided that any decision by VA to increase the copayment amount or annual cap amount is the subject of a rulemaking proceeding. We have implemented this statute in 38 CFR 17.110.

Under current 38 CFR 17.110(b)(1), veterans are "obligated to pay VA a copayment for each 30-day or less supply of medication provided by VA on an outpatient basis (other than medication administered during treatment)." The regulation includes an escalator provision for the copayment amount. Since 2001, the regulation has stated that the copayment amount for each calendar year is established using the CPI–P as follows: The Index as of the previous September 30 will be divided by the Index as of September 30, 2001. The ratio so obtained will be multiplied by the original copayment amount of $7. The new copayment amount will be this result, rounded down to the whole dollar amount.

In a notice announcing an interim final, rule published on December 31, 2009, we stated that we had concerns about an imminent increase in copayments under the methodology in current 38 CFR 17.110(b). 74 FR 69283. We notified the public of our need for "time to determine whether an increase [in copayments] might pose a significant financial hardship for certain veterans and if so, what alternative approach would provide appropriate relief for these veterans." On that basis, we "froze" copayments at $8 for the period January 1, 2010, through June 30, 2010. We concluded that the copayment freeze would give us time to analyze the current methodology and determine whether it might cause a significant financial hardship for veterans. We also provided notice that based upon VA analysis of copayments, "the Secretary may initiate new rulemaking [regarding the methodology for increasing copayments] rather than continue to rely on the CPI–P escalator provision." Thus, as we stated in the notice announcing the interim final rule, the intended effect of this rulemaking was "to temporarily freeze copayments and the copayment cap, following which copayments and the copayment cap would increase as prescribed in § 17.110(b)."

We received 5 comments on the interim final rule. None of the comments opposed freezing copayments from January 1 to June 30, 2010.

Some commenters indicated that VA should not allow the escalator clause to become effective again at the end of the 6-month period for a variety of reasons related to VA's authority to charge and increase copayments and its current methodology for determining copayment amounts. However, VA's intent regarding the interim final rule was only to delay the effect of the escalator clause that would otherwise have required an increase from $8 to $9 on January 1, 2010, while VA further considered its copayment policy. The interim final rule did not alter the current methodology for increasing copayments, and did not affect any period beyond June 30, 2010. To the extent that the commenters suggest an extension of the freeze in copayments, we will initiate a separate rulemaking that addresses copayments after June 30, 2010. We encourage commenters to carefully review the substance of the new rulemaking and provide us their comments.

Several commenters opined that VA should not increase copayments at all. Some reasons suggested were the current state of the economy and because, the commenters assert, the same medications can be obtained for a lower price from commercial vendors. One commenter suggested that the copayment amount should "regress to the earlier, base, [sic] amount of $7.00." Another suggested that our prices are higher than the actual cost of the drugs. All of these comments concern bases for the methodology used by VA to calculate copayment amounts, which was not the subject of the interim final rule. The rule merely delayed application of the methodology while VA considers the merits of its copayment policy.

Regarding comments related to VA's copayment rate versus commercial vendors, as we indicated in the December 31, 2009, rulemaking notice, we are in the process of examining this matter. *See* 74 FR 69283. We cannot adequately respond to the substance of these comments until we have had sufficient time to complete our review and decide on a possible alternative methodology for computing the copayment amount. When our review is complete, if we determine that a new methodology is appropriate, we intend to publish a notice of proposed rulemaking, consider public comments, and implement a final rule before the expiration of any freeze in copayments. We appreciate the commenters' interest in this critical issue and encourage them to submit specific comments addressing the provisions of any proposed rule that would revise VA's copayment policy.

Another commenter suggested that after June 30, 2010, we use the current methodology to increase the copayment amount only for veterans with nonservice-connected disabilities who are in priority category 8. Again, the purpose of the interim final rule was to avoid an imminent increase in copayments while VA considers its copayment policy—it did not change the existing methodology for increasing copayments, and merely provided for a return to that methodology after June 30, 2010. However, we will use the comment to inform our decision in the separate rulemaking noted above that addresses copayments after June 30, 2010.

Because none of the comments that we received opposed the 6-month freeze prescribed by the interim final rule on December 31, 2009, we are affirming the interim final rule without change.

Unfunded Mandates

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

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Executive Order 12866

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

recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

VA has examined the economic, interagency, budgetary, legal, and policy implications of this rule and has concluded that it does constitute a significant regulatory action under the Executive Order.

Regulatory Flexibility Act

The Secretary hereby certifies that this 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. 601–612. This rule freezes for 6 months the copayments that certain veterans are required to pay for prescription drugs furnished by VA. The rule affects individuals and has no impact on any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number and title for this rule are as follows: 64.005, Grants to States for Construction of State Home Facilities; 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.016, Veterans State Hospital Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem Program.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, approved this document on March 12, 2010, for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Grant programs—Veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Dated: June 3, 2010.

William F. Russo,

Director of Regulations Management, Office of the General Counsel.

PART 17—MEDICAL

■ Accordingly, the interim final rule amending 38 CFR 17.110, which was published at 74 FR 69283 on December 31, 2009, is adopted as a final rule without change.

[FR Doc. 2010–13872 Filed 6–8–10; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AN65

Copayments for Medications After June 30, 2010

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) medical regulations concerning the copayment required for certain medications. Under current regulations, the copayment amount must be increased based on the prescription drug component of the Medical Consumer Price Index (CPI–P), and the maximum annual copayment amount must be increased when the copayment is increased. Under the amendments in this rule, until January 1, 2012, we will freeze copayments at the current rate for veterans in VA's health care system enrollment priority categories 2 through 6 and increase copayments as required by the current regulation only for veterans in priority categories 7 and 8. Thereafter, if VA does not prescribe a new methodology for increasing copayments, we will resume increasing copayments in accordance with any change in the CPI–P.

DATES: *Effective Date:* This rule is effective on July 1, 2010.

Comments must be received on or before August 9, 2010.

ADDRESSES: Written comments may be submitted by e-mail through *http://www.regulations.gov;* by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to "RIN 2900–AN65—Copayments for Medications After June 30, 2010." 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. 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: Roscoe Butler, Acting Director, Business Policy, Chief Business Office, 810 Vermont Avenue, Washington, DC 20420, 202–461–1586. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Under 38 U.S.C. 1722A(a), VA must require veterans to pay a $2 copayment for each 30-day supply of medication furnished on an outpatient basis for the treatment of a nonservice-connected disability or condition. Under 38 U.S.C. 1722A(b), VA "may," by regulation, increase that copayment and establish a maximum annual copayment (a "cap"). We interpret section 1722A(b) to mean that VA has discretion to determine the appropriate copayment amount and annual cap amount for medication furnished on an outpatient basis for covered treatment, provided that any decision by VA to increase the copayment amount or annual cap amount is the subject of a rulemaking proceeding. We have implemented this statute in 38 CFR 17.110.

Under current 38 CFR 17.110(b)(1), veterans are "obligated to pay VA a copayment for each 30-day or less supply of medication provided by VA on an outpatient basis (other than medication administered during treatment)." The regulation ties any increase in that copayment amount to the CPI–P. The current regulation includes an escalator provision for the copayment amount. The regulation states that the copayment amount is established using the CPI–P as follows: For each calendar year or other period as determined by the Secretary of Veterans Affairs beginning after June 30, 2010, the Index as of the previous September 30 will be divided by the Index as of September 30, 2001. The

ratio so obtained will be multiplied by the original copayment amount of $7. The copayment amount for the new year will be this result, rounded down to the whole dollar amount.

Currently, § 17.110(b)(2), also includes a "cap" on the total amount of copayments in a calendar year for a veteran enrolled in one of VA's health care enrollment system priority categories 2 through 6. There is no cap for a veteran enrolled in priority categories 7 or 8. The amount of the cap was $840 for the year 2002. The current regulation also requires that "[i]f the copayment amount increases * * * the cap of $840 shall be increased by $120 for each $1 increase in the copayment amount." *See* 38 CFR 17.110(b)(2).

In January 2006, based on current § 17.110(b), the copayment amount increased to $8 and the cap for priority categories 2 through 6 increased to $960. VA published a notice regarding this change in the **Federal Register** at 70 FR 72329 (December 2, 2005). Then, on December 31, 2009, VA issued an interim final rule amending § 17.110 to "freeze" until June 30, 2010, the copayment amount at $8 for all veterans. 74 FR 69283 (December 31, 2009). Thereafter, under the regulation, the escalator provision described above would take effect. In a separate document that published today in the rules section (RIN 2900–AN50), we addressed the comments we received concerning the interim final rule and affirmed the interim final rule as a final rule without change. This rulemaking concerns the period beginning on July 1, 2010, after the end of the freeze implemented by the December 31, 2009, rulemaking. It revises the language of § 17.110(b), effective July 1, 2010.

Based on our analysis of the average rate of growth of the CPI–P, the current regulatory methodology, calculated according to the CPI–P as of September 30, 2009, automatically increased the copayment amount from $8 to $9 effective January 1, 2010. Currently, § 17.110(b) does not afford the Secretary of Veterans Affairs discretion to alter the copayment amount as calculated by the CPI–P formula. In a notice announcing the interim final rule, published on December 31, 2009, we stated that we had concerns about an imminent increase in copayments under the methodology in current 38 CFR 17.110(b). 74 FR 69283. We stated that we needed "time to determine whether an increase [in copayments] might pose a significant financial hardship for certain veterans and if so, what alternative approach would provide appropriate relief for these veterans," and therefore issued an interim final rule intended "to temporarily freeze copayments and the copayment cap, following which copayments and the copayment cap would increase as prescribed in § 17.110(b)." Thus, although the appropriate copayment amount, under the regulatory formula, increased to $9, we suspended the effect of that increase through June 30, 2010.

Although we continue to believe that the CPI–P is a relevant indicator of the costs of prescriptions nationwide, we need additional time to ascertain whether there might be better indicators upon which we can base our copayment amounts to ensure certain veterans with greater need for medical care and lower income do not face significant financial hardships. In light of this anticipated review and given the current economic climate, we propose to delay implementation of the $1 increase in the copayment amount (and the corresponding $120 increase in the cap) until the completion of our review for veterans in priority categories 2 through 6 of VA's health care system. *See* 38 CFR 17.36. We believe that it is appropriate to maintain the current copayment amount for these groups while we review our overall copayment methodology because these groups would be impacted more by the increase in the copayment due to their likely greater need for medical care due to their disabilities or conditions of service. Therefore, we will continue the copayment amount at the current $8 rate for veterans in priority categories 2 through 6 through December 31, 2011, in order to complete the review of indicators to base our copayment amounts. The cap will also remain at the current level ($960) for these veterans. Depending on the results of the review described above, the Secretary may initiate a new rulemaking on this subject rather than continue to rely on the CPI–P escalator provision to determine the copayment amount.

At the end of calendar year 2011, unless additional rulemaking is initiated, VA will once again utilize the CPI–P methodology in § 17.110(b)(1) to determine whether to increase copayments and calculate any mandated increase in the copayment amount for veterans in priority categories 2 through 6. At that time, the CPI–P as of September 30, 2011, will be divided by the index as of September 30, 2001, which was 304.8. The ratio will then be multiplied by the original copayment amount of $7. The copayment amount of the new calendar year will be rounded down to the whole dollar amount. As mandated by current § 17.110(b)(2), the annual cap will be calculated by increasing the cap by $120 for each $1 increase in the copayment amount. Any change in the copayment amount and cap, along with the associated calculations explaining the basis for the increase, will be published in a **Federal Register** notice. Thus, the intended effect of this rule is to temporarily prevent increases in copayment amounts and the copayment cap for veterans in priority categories 2 through 6, following which copayments and the copayment caps will increase as prescribed in current § 17.110(b).

At the same time, in light of our statutory responsibility to control costs under 38 U.S.C. 1722A and the distinctions noted above regarding veterans in priority categories 2 through 6, we will allow the copayment increase to $9 for veterans in priority categories 7 and 8. *See* 66 FR 63449 (discussing "the statutory intent * * * for VA to increase the copayment amount" consistent with industry standards). Consequently, we will not further delay the increase to the copayment amount to $9 for priority categories 7 and 8. Consistent with the review of the CPI–P methodology and study of private health care industry standards described above, we will maintain copayments for priority categories 7 and 8 at the $9 rate through December 31, 2011, following which copayments will be increased according to the methodology in proposed § 17.110(b)(1).

We note that we have not yet proposed a new methodology to establish copayments and, for that reason, request public comment only on the effect of this rulemaking, which is to freeze the copayment amount for veterans in priority categories 2 through 6 while we study alternative methodologies to calculate appropriate copayment amounts for all veterans.

Administrative Procedure Act

In accordance with 5 U.S.C. 553(b)(3)(B) and (d)(3), the Secretary of Veterans Affairs finds that there is good cause to dispense with the opportunity for advance notice and opportunity for public comment and good cause to publish this rule with an immediate effective date. As stated above, this rule freezes at current rates the prescription drug copayment that VA charges certain veterans. The Secretary finds that it is impracticable and contrary to the public interest to delay this rule for the purpose of soliciting advance public comment or to have a delayed effective date. Increasing the copayment amount on July 1, 2010, might cause a significant financial hardship for some veterans.

For the above reasons, the Secretary issues this rule as an interim final rule.

VA will consider and address comments that are received within 60 days of the date this interim final rule is published in the **Federal Register.**

Unfunded Mandates

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

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Executive Order 12866

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

The economic, interagency, budgetary, legal, and policy implications of this rule have been examined and it has been determined to be a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule will temporarily freeze the copayments that certain veterans are required to pay for prescription drugs furnished by VA. The rule affects individuals and has no impact on any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number and title for this rule are as follows: 64.005, Grants to States for Construction of State Home Facilities; 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.016, Veterans State Hospital Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem Program.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, approved this document on March 12, 2010, for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Grant programs—Veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Dated: June 3, 2010.

William F. Russo,

Director of Regulations Management, Office of the General Counsel.

■ For the reasons set forth in the preamble, VA amends 38 CFR part 17 as follows:

PART 17—MEDICAL

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

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

■ 2. In § 17.110, revise paragraph (b)(1) to read as follows:

§ 17.110 Copayments for medication.

* * * * *

(b) *Copayments.* (1) *Copayment amount.* Unless exempted under paragraph (c) of this section, a veteran is obligated to pay VA a copayment for each 30-day or less supply of medication provided by VA on an outpatient basis (other than medication administered during treatment).

(i) For the period from January 1, 2010, through June 30, 2010, the copayment amount is $8.

(ii) For the period from July 1, 2010, through December 31, 2011, the copayment amount for veterans in priority categories 2 through 6 of VA's health care system (*see* § 17.36) is $8.

(iii) For veterans in priority categories 7 and 8 of VA's health care system (see § 17.36), the copayment amount from July 1, 2010, through December 31, 2011, is $9.

(iv) The copayment amount for all affected veterans for each calendar year after December 31, 2011, will be established by using the prescription drug component of the Medical Consumer Price Index as follows: For each calendar year, the Index as of the previous September 30 will be divided by the Index as of September 30, 2001 which was 304.8. The ratio so obtained will be multiplied by the original copayment amount of $7. The copayment amount for the new calendar year will be this result, rounded down to the whole dollar amount.

Note to Paragraph (b)(1)(iv): Example for determining copayment amount. The ratio of the prescription drug component of the Medical Consumer Price Index for September 30, 2005, to the corresponding Index for September 30, 2001 (304.8) was 1.1542. This ratio, when multiplied by the original copayment amount of $7 equals $8.08, and the copayment amount beginning in calendar year 2006, rounded down to the whole dollar amount, was set at $8.

* * * * *

■ 3. In § 17.110, amend paragraph (b)(2) by removing "June 30, 2010" in both

places it appears, and adding, in its place, "December 31, 2011."

[FR Doc. 2010–13871 Filed 6–8–10; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–HQ–OAR–2010–0409; FRL–9159–5]

Finding of Failure To Submit Section 110 State Implementation Plans for Interstate Transport for the 2006 National Ambient Air Quality Standards for Fine Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is making a finding that certain states have failed to submit State Implementation Plans (SIPs) to satisfy the attainment and maintenance interstate transport requirements of the Clean Air Act (CAA) with respect to the 2006 24-hour National Ambient Air Quality Standards (NAAQS) for fine particulate matter (24-hour $PM_{2.5}$). Pursuant to the CAA, states are required to submit SIPs that satisfy the requirements of the CAA related to interstate transport of pollution. This document addresses two elements of that requirement. A state must address its significant contribution to nonattainment and its interference with maintenance of a NAAQS in any neighboring state. The CAA requires that states submit SIPs to meet the applicable requirements of the CAA within 3 years after the promulgation of a new or revised NAAQS, or within such shorter period as EPA may provide. On September 21, 2006, EPA promulgated a final rule establishing new standards for the 24-hour $PM_{2.5}$ NAAQS. At present, 29 states or territories have not yet submitted complete SIPs to satisfy the section 110(a) nonattainment and maintenance transport requirements. Through this action, EPA is making a finding of failure to submit these SIPs which creates a 2-year deadline for the promulgation of a Federal Implementation Plan (FIP) by EPA unless, prior to that deadline, a state makes a submission to meet these two requirements of the CAA and EPA approves such submission.

DATES: The effective date of this rule is July 9, 2010.

FOR FURTHER INFORMATION CONTACT: General questions concerning this final rule should be addressed to Ms. Gobeail McKinley, Office of Air Quality Planning and Standards, Geographic Strategies Group, Mail Code C539–04, Research Triangle Park, NC 27711; telephone (919) 541–5246; *e-mail address: gobeail.mckinley@epa.gov.*

SUPPLEMENTARY INFORMATION: For questions related to a specific state, please contact the appropriate regional office:

Regional offices	States
Ray Werner, Chief, Air Programs Branch, EPA Region II, 290 Broadway, 25th Floor, New York, NY 10007–1866.	Puerto Rico and the U.S. Virgin Islands.
Cristina Fernandez, Associate Director, Office of Air Program Planning (3AP30), Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2023.	Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia.
Jay Bortzer, Chief, Air Programs Branch, EPA Region V, 77 West Jackson Street, Chicago, IL 60604.	Illinois, Michigan, Minnesota, and Wisconsin.
Guy Donaldson, Chief, Air Planning Section, EPA Region VI, 1445 Ross Avenue, Dallas, TX 75202.	Louisiana and Oklahoma.
Josh Tapp, Chief, Air Programs Branch, EPA Region VII, 901 North 5th Street, Kansas City, Kansas 66101–2907, (913) 551–7606.	Iowa and Nebraska.
Monica Morales, Leader, Air Quality Planning Unit, EPA Region VIII, U.S. EPA Region VIII, 1595 Wynkoop Street, Denver, CO 80202–1129.	Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.
Lisa Hanf, Chief, Air Planning Office, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105.	Hawaii, American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam.
Michael McGown, Manager, State and Tribal Air Programs, EPA Region X, Office of Air, Waste, and Toxics, Mail Code AWT–107, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.	Alaska, Idaho, Oregon, and Washington.

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I. Background

On October 17, 2006, EPA published a final rule revising the 24-hour standard for fine particulate matter ($PM_{2.5}$) from 65 micrograms per cubic meter ($\mu g/m^3$) to 35 $\mu g/m^3$. Section 110(a)(1) of the CAA requires states to submit revised SIPs that provide for the implementation, maintenance, and enforcement of a new or revised standard within 3 years after promulgation of such standard, or within such shorter period as EPA may prescribe. Section 110(a)(2)(D)(i) contains four elements that revised SIPs must address. This findings notice addresses the first two elements which require each state to submit SIPs which contain adequate provisions to prohibit air pollution within the state that (1) contributes significantly to another state's nonattainment of the NAAQS; or (2) interferes with another state's maintenance of the NAAQS. Section 110(a)(1) imposes the obligation upon states to make a SIP submission for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS necessarily affects the content of the submission.

States were required to have submitted complete SIPs that addressed

the section 110(a)(2)(D)(i)(I) requirement related to interstate transport for the 2006 24-hour $PM_{2.5}$ NAAQS by September 21, 2009. At present, 29 states and territories have not made a SIP submittal that addresses the attainment and maintenance aspects of this requirement. This includes the following states or territories: Alaska, Colorado, Hawaii, Idaho, Illinois, Iowa, Louisiana, Maryland, Michigan, Minnesota, Montana, Nebraska, North Dakota, Oklahoma, Oregon, Pennsylvania, South Dakota, Utah, Virginia, Washington, West Virginia, Wisconsin, Wyoming, the District of Columbia, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, and the U.S. Virgin Islands. EPA is making a finding of failure to submit SIPs for these two transport requirements for all these states and territories. It should be noted that a number of other states initially submitted SIP revisions to address this requirement. EPA will review and make a separate determination for those SIPs.

This finding establishes a 2-year deadline for promulgation by EPA of a FIP, in accordance with section 110(c)(1), for any state that either does not submit or EPA can not approve a SIP as meeting the attainment and maintenance requirements of section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS. This action does not result in sanctions pursuant to section 179 because this finding of failure to submit does not pertain to a part D plan for nonattainment areas, or to a SIP Call pursuant to section 110(k)(5).

II. This Action

By this action, EPA is making the finding that states have failed to submit complete SIPs to address the attainment and maintenance requirements of section 110(a)(2)(D)(i)(I) of the CAA for the revised 2006 24-hour $PM_{2.5}$ NAAQS. This finding creates a 2-year deadline for the promulgation of a FIP by EPA for a particular state or territory, unless that state or territory submits a SIP to satisfy these section 110(a)(2)(D)(i)(I) requirements, and EPA approves such submission prior to that deadline.

III. Statutory and Executive Order Reviews

A. Notice and Comment Under the Administrative Procedures Act (APA)

This is a final EPA action, which is subject to notice-and-comment requirements of the Administrative Procedures Act (APA), 5 U.S.C. 553(b). However, EPA invokes, consistent with past practice (for example, 61 FR 36294), the good cause exception pursuant to APA, 5 U.S.C. 553(b)(3)(B). Notice and comment are unnecessary because no significant EPA judgment is involved in making a finding of failure to submit SIPs or elements of SIPs required by the CAA, where states have made no submissions to meet the requirement by the statutory deadline.

B. Executive Order 12866: Regulatory Planning and Review

This action is not a "significant regulatory action" under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review by the Office of Management and Budget under the EO.

C. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). This action relates to the requirement in the CAA for states to submit SIPs under section 110(a)(1) that implements the CAA requirements for the revised 24-hour $PM_{2.5}$ NAAQS. Section 110(a)(1) of the CAA requires that states submit SIPs that implement, maintain, and enforce a new or revised NAAQS which satisfies the requirements of section 110(a)(2) within 3 years of promulgation of such standard, or shorter period as EPA may provide. The present final action does not establish any new information collection requirement apart from that required by law.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the APA or any other statute unless the EPA certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For the purpose of assessing the impacts of this final action on small entities, small entity is defined as: (1) A small business that is a small industry entity as defined in the U.S. Small Business Administration (SBA) size standards. (*See* 13 CFR, part 121); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for profit enterprise which independently owned and operated is not dominate in its field.

Courts have interpreted the RFA to require a regulatory flexibility analysis only when small entities will be subject to the requirements of the rule. *See, Michigan* v. *EPA,* 213 F.3d 663, 668–69 (DC Cir., 2000), *cert. den.,* 532 U.S. 903 (2001). This rule would not establish requirements applicable to small entities. Instead, it would require states to develop, adopt, and submit SIPs to meet the requirements of section 110(a)(2)(D)(i), and would leave to the states the task of determining how to meet those requirements, including which entities to regulate. Moreover, because affected states would have discretion to choose the sources to regulate and how much emissions reductions each selected source would have to achieve, EPA could not predict the effect of the rule on small entities. After considering the economic impacts of this final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In addition, although the action is subject to the Administrative Procedures Act, the Agency has invoked the "good cause" exemption under 5 U.S.C. 553(b); therefore, it is not subject to the notice and comment requirement.

E. Unfunded Mandates Reform Act

This action contains no federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local, or tribal governments or the private sector. The action implements mandate(s) specifically and explicitly set forth by the Congress in CAA section 110(a)(2)(D)(i)(I) without the exercise of any policy discretion by EPA.

This action does not create any additional requirements beyond those of the 2006 24-hour $PM_{2.5}$ NAAQS (71 FR 61144, October 17, 2006). Therefore, no UMRA analysis is needed. This rule responds to the requirement in the CAA for states to submit SIPs to satisfy the requirements of section 110(a)(2) of the CAA for the 2006 24-hour $PM_{2.5}$ NAAQS. Section 110(a)(1) of the CAA requires that states submit SIPs that implement, maintain, and enforce a new or revised NAAQS within 3 years of promulgation of such standard, or shorter period as EPA may provide. This action does not impose any requirements beyond those specified in the Act.

Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA. This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might

significantly or uniquely affect small governments.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in EO 13132. The CAA establishes the scheme whereby states take the lead in developing plans to meet the NAAQS. This action will not modify the relationship of the states and EPA for purposes of developing programs to implement the NAAQS. Thus, Executive Order 13132 does not apply to this action.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This action responds to the requirement in the CAA for states to submit SIPs to satisfy the requirements of section 110(a)(2) of the CAA for the 2006 24-hour $PM_{2.5}$ NAAQS. Section 110(a)(1) of the CAA requires that states submit SIPs that implement, maintain, and enforce a new or revised NAAQS which satisfies the requirements of section 110(a)(2) within 3 years of promulgation of such standard, or shorter period as EPA may provide. The CAA provides for states and tribes to develop plans to regulate emissions of air pollutants within their jurisdictions. The regulations clarify the statutory obligations of states and tribes that develop plans to implement this rule. The Tribal Authority Rule (TAR) gives tribes the opportunity to develop and implement CAA programs, but it leaves to the discretion of the tribe whether to develop these programs and which programs, or appropriate elements of a program, the tribe will adopt.

This action does not have tribal implications as defined by Executive Order 13175. It does not have a substantial direct effect on one or more Indian tribes, because no tribe has implemented an air quality management program related to the 2006 24-hour $PM_{2.5}$ NAAQS at this time. Furthermore, this action does not affect the relationship or distribution of power and responsibilities between the federal government and Indian tribes. The CAA and the TAR establish the relationship of the federal government and Tribes in developing plans to attain the NAAQS, and this action does nothing to modify that relationship. Because this action does not have tribal implications, Executive Order 13175 does not apply.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to EO 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in EO 12866, and because the Agency does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. Nonetheless, we have evaluated the environmental health or safety effects of the 2006 24-hour $PM_{2.5}$ NAAQS on children. The results of this risk assessment are contained in the final rule for 24-hour $PM_{2.5}$ NAAQS (71 FR 61144, October 17, 2006).

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this final action. This action responds to the requirement in the CAA for states to submit SIPs to satisfy the requirements of section 110(a)(2)(D)(i)(I) of the CAA for the 2006 24-hour $PM_{2.5}$ NAAQS. Section 110(a)(1) of the CAA requires that states submit SIPs that implement, maintain, and enforce a new or revised NAAQS which satisfies the requirements of section 110(a)(2) within 3 years of promulgation of such standard, or shorter period as EPA may provide. EPA is merely determining whether states have complied with this statutory requirement.

L. Congressional Review Act

The Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of July 9, 2010. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the action in the **Federal Register.** This action is not a "major rule" as defined by 5 U.S.C. 808(2).

M. Judicial Review

Section 307(b)(1) of the CAA indicates which Federal Courts of Appeal have venue for petitions of review of final actions by EPA. This section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit: (i) When the EPA action consists of "nationally applicable regulations promulgated, or

final actions taken, by the Administrator," or (ii) when such action is locally or regionally applicable, if "such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination."

This action making a finding of failure to submit SIPs related to the section 110(a)(2)(D)(i)(I) requirements for the 2006 24-hour $PM_{2.5}$ NAAQS is "nationally applicable" within the meaning of section 307(b)(1).

For the same reasons, the Administrator also is determining that the requirements related to these finding of failure to submit SIPs related to the section 110(a)(2)(D)(i)(I) requirement is of nationwide scope and effect for the purposes of section 307(b)(1). This is particularly appropriate because in the report on the 1977 Amendments that revised section 307(b)(1) of the CAA, Congress noted that the Administrator's determination that an action is of "nationwide scope or effect" would be appropriate for any action that has "scope or effect beyond a single judicial circuit." H.R. Rep. No. 95–294 at 323, 324, reprinted in 1977 U.S.C.C.A.N. 1402–03. Here, the scope and effect of this rulemaking extends to numerous judicial circuits since the findings of failure to submit SIPs apply to all areas of the country. In these circumstances, section 307(b)(1) and its legislative history call for the Administrator to find the rule to be of "nationwide scope or effect" and for venue to be in the District of Columbia Circuit.

Thus, any petitions for review of this action related to a findings of failure to submit SIPs related to the requirements of section 110(a)(2)(D)(i)(I) of the CAA must be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date final action is published in the **Federal Register.**

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 28, 2010.

Gina McCarthy,

Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2010–13457 Filed 6–8–10; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

48 CFR Parts 3025 and 3052

[Docket No. DHS–2009–0081]

RIN 1601–AA57

Revision of Department of Homeland Security Acquisition Regulation; Restrictions on Foreign Acquisition (HSAR Case 2009–004)

AGENCY: Office of the Chief Procurement Officer, DHS.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Department of Homeland Security is adopting the amendments to its Homeland Security Acquisition Regulation that were issued under an interim rule on August 17, 2009, as final, without change, to implement a statute limiting the acquisition of products containing textiles from sources outside the United States.

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

FOR FURTHER INFORMATION CONTACT: Jeremy Olson, Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation Branch, (202) 447–5197.

SUPPLEMENTARY INFORMATION:

I. Background

The American Recovery and Reinvestment Act of 2009 ("Recovery Act"), Public Law 111–5, 123 Stat. 115, 165–166 (Feb. 17, 2009), contains restrictions on the Department of Homeland Security's (DHS) acquisition of certain foreign textile products. Specifically, the Recovery Act at section 604, codified as 6 U.S.C. 453b, limits the Department's acquisition of foreign textile products under DHS contract actions entered into on or after August 16, 2009, using funds appropriated or otherwise made available to DHS on or before February 17, 2009, the date of the Act. Section 604 is sometimes referred to as the "Kissell Amendment." DHS may not use those funds for the procurement of certain clothing and other textile items directly related to the national security interests of the United States if such items are not domestically grown, reprocessed, reused, or produced in the United States.

Section 604 does, however, contain exceptions. The law requires DHS to apply these restrictions in a manner consistent with United States obligations under international agreements (such as free trade agreements and the World Trade Organization Agreement on Government Procurement). Moreover, restrictions on some of the covered textile items do not apply to commercial item acquisitions. Also, the Recovery Act's restriction on the Department's acquisition of covered foreign textiles does not apply to: purchases for amounts not greater than the simplified acquisition threshold (SAT) (currently $100,000); when covered items of satisfactory quality and sufficient quantity cannot be procured as needed at United States market prices; when a covered item contains less than 10% non-compliant fibers; when the procurement is made by vessels in foreign waters; or for emergency procurements outside of the United States.

On August 17, 2009, DHS published an interim rule with request for comments discussing the agency's implementation of the Kissell Amendment and providing specific amendments to the Homeland Security Acquisition Regulation (HSAR) at parts 3025 and 3052. 74 FR 41346, Aug. 17, 2009. This final rule adopts that interim rule as final without change, revising the HSAR to add solicitation provisions, contract clauses and related policy statements implementing these requirements and exceptions for certain DHS contracts, option exercises and orders.

II. Disposition of Public Comments

In response to the request for comments on the interim rule, DHS received comments from 26 commenters, consisting of trade associations, individuals, companies and a Member of Congress. The majority of the commenters expressed their favorable views of section 604 and suggested that DHS consider several technical changes to improve that implementation.

The changes to the interim rule that were most commonly recommended by commenters fall into four categories:

- Make the "de minimis" exception a post-award forbearance decision; do not make the "de minimis" exception an advance regulatory exemption in the HSAR;
- Eliminate the HSAR definition of "national security interests"; cover all DHS acquisitions as being related to "national security interests" of the United States;

• Do not list Mexico, Canada or Chile in the HSAR; let individual contracting officers determine for themselves which countries have international agreements that impact individual procurements;

• Mirror the Department of Defense implementation of the Berry Amendment.

These comments and others are described below along with discussion of DHS's consideration and disposition of all comments to the interim rule.

Comment on Post-award De Minimis Authority—Commenters suggested that the interim rule's de minimis exception in section 604(d) should be interpreted as post-procurement authority. These commenters observed that the manner in which this section was developed suggests that the Secretary has latitude to override section 604's fiber sourcing requirement when non-compliant fibers have been incorporated in a product in an otherwise compliant, completed procurement. Commenters observed that Congress is silent on this issue and that such silence provides the Secretary of Homeland Security the option to accept delivery of an item produced with fiber out of compliance with the Act's U.S. domestic procurement mandate, in instances where the non-compliant fiber in question does not exceed 10% of the value of the delivered product.

DHS response to the comment. Do not concur. The statute addresses delivery of noncompliant items as follows: (d) *De Minimis Exception—Notwithstanding subsection (a), the Secretary of Homeland Security may accept delivery of an item covered by subsection (b) that contains non-compliant fibers if the total value of non-compliant fibers contained in the end item does not exceed 10 percent of the total purchase price of the end item.* This subsection of section 604 provides authority to the Department that can be implemented either pre-award (as addressed in the interim rule) or post-award (as the commenters recommended). DHS determined that it would be highly impractical to implement a post-award exception for homeland security procurements. Items containing de minimis amounts of non-compliant materials could be rejected after they were delivered. A contractor would not know in advance if such an exception would or would not be granted. Facing this risk, planning flexibility available to DHS contractors would be substantially reduced. DHS determined that the best way to communicate its intentions under this authority was to grant the approval for all de minimis content items in advance within the regulation. By following this path, DHS gives its potential contractors the advantage of certainty and the information necessary for them to make the most advantageous offer possible to the government, without the risk that delivery might be rejected for inclusion of de minimis amounts after the contractor's proposal was accepted and the resulting contract was awarded. Further, given the authority in subsection (d), and its characterization as a de minimis exception, DHS finds it hard to envision a circumstance in which a delivery containing de minimis amounts of non-compliant materials could be rejected in a principled way. Accordingly, advance approval of such deliveries is the best approach for compliance with section 604, subsection (d), under the regulation.

Comment on National Security Interests—Commenters argued that DHS has adopted an unnecessarily restrictive definition of items "directly related to national security interests" for purposes of applying the Kissell Amendment. The commenters further suggested that it appears that the interim rule intends to unnecessarily exclude certain textile products from operation of the Kissell Amendment. According to the commenters, the Kissell Amendment was intended to be an extension of the Berry Amendment to DHS. By creating a new definition for purposes of applying this amendment, the commenters argued that DHS is undermining the intent of Congress and creating unnecessary complications in the procurement process. The current rules governing the Berry Amendment apply to all goods at the Department of Defense (DoD), except in certain limited instances. Within that spirit, the commenters believe that the final rule should not deviate in any manner from the original intent of Congress.

DHS response to the comment. Do not concur. Section 604 has certain language in common with the Berry Amendment (10 U.S.C. 2533a), but its language is by no means identical, nor even varied solely to import the requirements of the Berry Amendment to a non-DoD agency. As such, section 604 is not "an extension" of the Berry Amendment to DHS. Section 604 is an independent statutory requirement. If the requirements of section 604 were meant to apply to all DHS acquisitions, the qualifying and limiting language of section 604 (i.e. that the covered item be "directly related to national security interests") would be unnecessary. Given that these limits in scope are included in the plain language of section 604, DHS has no choice but to honor them. DHS considered, but rejected, an interpretation under which all DHS acquisitions of covered textile items would be considered to be "directly related to the national security interests of the United States" because it would have rendered those words a nullity. DHS cannot interpret the presence of these limiting words as having no meaning or effect. Because section 604 did not define this expression, DHS was obliged to define it reasonably, which is explained in the preamble to the interim rule.

Comment on NAFTA and U.S.-Chile Free Trade Agreement—Commenters observed that the interim rule specifically identifies items from Free Trade Agreement (FTA) partners Mexico, Canada, and Chile as eligible for procurement benefits, notwithstanding the basic provisions of the Kissell Amendment. The commenters also said that after the enactment of the Kissell Amendment, it was learned that the U.S. Trade Representative did not properly notify FTA partners Mexico, Canada, and Chile that DHS agencies could fall under stricter procurement rules for national security purposes. The commenters pointed out that under the rules of the FTAs and international procurement agreements, proper notification is required. The commenters objected to the specific mention in the interim rule of these countries by name. In the event that the Office of the United States Trade Representative (USTR) were to establish a new understanding with these three countries, the commenters argued that DHS will have to issue new regulations, complete with a public comment period in order to properly remove the countries from the rule. The commenters observed that this will cause further delay and negatively impact the ability to seek the full benefit of the Kissell Amendment.

DHS response to the comment. Do not concur. The regulation, which among other purposes functions as guidance for DHS contracting officers, must convey what requirements apply to items that may or may not be covered by the requirements of section 604. Deletion of the named countries would complicate understanding of the rule under legal requirements that exist today, and would further require each individual contracting officer to determine the applicability of section 604 in the event items are offered that originate in any of the three listed countries. The agreements with these countries were identified specifically only because they exist as exceptions to the Transportation Security Administration's (TSA) exclusion from coverage under international agreements. If, in the future, TSA were excluded from these

agreements, the Department will amend these rules, as appropriate.

Comment on Adoption of the Defense Federal Acquisition Regulation Supplement (DFARS)—Commenters stated they are concerned with the interim rule unnecessarily plowing new ground with its definition of "Item directly related to national security interests" in Subpart 3025.7001(e)(5) and the inclusion of that phrase as an exception in Subpart 3025.7002–2(b). The commenters argue that this language will greatly complicate the ability of contractors and government procurement officers to implement and comply with the new rule due to its uncertainty of meaning and the lack of precedent in administering the language at issue. A simpler and more reasonable approach, the commenters argue, would be for DHS to eliminate Subpart 3025.7001(e) and to replace Subpart 3025.7002–2(b) with regulatory language contained in 48 CFR 225.7002.2(m) and (n), and adhere to its accompanying guidance and precedents.

DHS response to the comment. Do not concur. The commenters suggest that the DHS regulation adopt regulatory language developed and promulgated by the DoD to comply with the "Berry Amendment." DHS cannot do so credibly. The statutory requirements applicable to DoD do not include any requirement that covered items must be "directly related to the national security interests of the United States." If there were such a statutory requirement applicable to DoD, DHS might be able to look to DoD regulatory requirements as a guide in that area, but no such requirement exists.

Comment on Possible Modifications of International Agreements—Commenters noted that the Office of the U.S. Trade Representative is actively seeking to make technical corrections to the North American Free Trade Agreement (NAFTA) and the U.S.-Chile Free Trade Agreement with respect to the coverage of the government procurement provisions of those agreements to TSA. The commenters object to the language of Subpart 3025.7002–3(a)(3) affecting TSA as drafted. Specifically, the commenters object to the inclusion of the following language, "* * * except those from Mexico, Canada or Chile because TSA is listed as a covered governmental entity in the North American Free Trade Agreement (NAFTA) and the U.S.-Chile Free Trade Agreement * * *"

DHS response to the comment. Do not concur. This guidance is necessary in order to ensure complete coverage of the statute and timely guidance to DHS contracting officers and the public. If in the future, TSA were excluded from these agreements, DHS will amend these rules, as appropriate.

Comment on Individual Contracts verses HSAR Coverage Regarding International Agreements—Commenters suggested that the interim rule at HSAR 3025.7002–3(a)(3) not list Mexico, Canada and Chile as countries from which items offered under TSA solicitations and contracts would be exempt from the procurement restrictions because of U.S. obligations under NAFTA and the U.S.-Chile FTA. In place of listing these countries in the HSAR, the commenters suggest that individual solicitations and contracts list these countries. They say that Mexico, Canada, and Chile should be listed in individual contract solicitations as countries with whom the United States has a trade agreement where TSA is listed as covered governmental entity and thus (HSAR) 48 CFR 3025.7002 will not apply.

DHS response to the comment. Do not concur. The commenter suggests that individual solicitations list these countries rather than listing the countries in the HSAR clause. Such an individual listing in each covered solicitation would be impractical. For individual contracting officers to list each covered country in each solicitation, each contracting officer would need to know they are required to include such a list, and it would require each contracting officer to know which countries to list. Further, the public would not be given the opportunity to review or comment on these contract terms that would appear in multiple solicitations and contracts. The only practical way to disseminate such knowledge to the public and to contracting officers is to include it in the HSAR, which DHS has done.

Comment Regarding International Agreements—Commenters urge DHS to write a final rule in a way that it will not need to be rewritten if in the future, TSA were to be excluded from trade agreements covering Mexico, Canada, and Chile.

DHS response to the comment. Do not concur. This regulation is written in this way to give complete and current coverage of the statute to the public and guidance to DHS contracting officers. If in the future, TSA were to be excluded from these international agreements, DHS will amend these rules, as appropriate.

Comment on Mirroring DFARS—Commenters contend that this rule needs to mirror the DoD Berry Amendment regulations as closely as possible and that they certainly do not need to refer to two different sets of regulations.

DHS response to the comment. Generally concur. However, the rule must comply with, and independently implement, its own statutory language and requirements, which are not the same as the DoD Berry Amendment.

Comment on Mirroring Berry Amendment—Commenters observed that in pursuing the enactment of the Recovery Act the Administration and Congress distinguished that the express purpose of this legislation was to stimulate the U.S. economy by creating jobs and encouraging investment. Specifically, they observe that the Kissell Amendment and the accompanying floor debate clearly outline that the intent of this Amendment is to bring the procurement practices of DHS in line with those of the Berry Amendment as applied to the DoD. As a major supplier of inputs for DoD textile and apparel products, a commenter believes it is essential that, subject to its respective statutory language, the Kissell Amendment implementing regulations mirror the DoD rules governing the Berry Amendment to ensure the ability of contractors and government procurement officers to implement and comply with the new rule. As currently drafted, commenters advise that they are concerned that the interim rule creates unnecessary uncertainty with its definition of "Item directly related to national security interests" in Subpart 3025.7001(e) and the inclusion of that term as an exception in Subpart 3025.7002–2(b).

DHS response to the comment. Concur in part. Section 604 has language in common with the Berry Amendment, but its language is by no means identical, nor even varied solely to import the requirements of the Berry Amendment to a non-DOD agency. As such, section 604 is not "an extension" of the Berry Amendment to DHS per se. The limitation of section 604's application to items "directly related to national security" is pursuant to express statutory language. Section 604 is an independent statutory requirement. If the requirements of section 604 were meant to apply to all DHS acquisitions, the qualifying and limiting language of section 604 (i.e., that the covered item be "directly related to national security interests") would be unnecessary. Given that these limits in scope are included in the plain language of section 604, DHS has no choice but to honor them. DHS considered, but rejected, an interpretation under which all DHS acquisitions of covered textile items would be considered to be "directly

related to the national security interests of the United States" because it would have rendered those words a nullity. DHS cannot interpret the presence of these limiting words as having no meaning or effect. Because section 604 did not define this expression, DHS was obliged to define it reasonably, which was explained in the preamble to the interim rule. The first and best evidence of both Congressional intent and Executive assent is the plain language of the statute. DHS has endeavored to use the legislative history, where appropriate, to inform a definition that is consistent with both the plain meaning of the expression and its usage in this statute.

Comment on "Component" Definition—Section 3025.7001(b) defines "component" as "any item supplied to the Government as part of an end product or of another component." A commenter argues that, in a global supply chain, this is an overly burdensome requirement, as it potentially requires suppliers to reestablish content down many layers of components. The commenter recommends that this definition be modified as follows: *(b) "Component" means any article, material or supply incorporated directly into an end product.*

The commenter explained that this definition establishes a component as an item "one off" from the finished good, and is a practicable and feasible requirement both for the supplier to meet and DHS to administer. The commenter understands that the definition in the interim rule is consistent with Federal procurement regulations and 41 U.S.C. 403, but because this term is not defined in the Act, the commenter requests DHS flexibility in changing this definition.

DHS response to the comment. Do not concur. The definition of "Component" also appears in DFARS clause 252.225–7012 (Preference for certain domestic commodities) and other clauses concerning restrictions of procurements to domestic products. Where consistent with the statutory language of section 604 and otherwise feasible, DHS has attempted to harmonize the treatment of textile items under section 604, the Berry Amendment, and more generally articulated procurement definitions.

Comment on Definition of "produced"—A commenter notes that in section 3025.7002–1, DHS will not acquire any national security product or component that "has not been grown, reprocessed, reused or produced in the United States." The commenter requests that DHS provide clear, plain English definitions of the terms "reprocessed," "reused," and "produced" as they relate to the interim rule.

DHS response to the comment. Do not concur. This phrase is straight from section 604, paragraph (a). Additionally, these terms are the same terms used in the DFARS implementation of the Berry Amendment restrictions on clothing and fabrics. Neither section 604 nor the DFARS define these terms; their meaning is plain enough to support application of the statute.

Comment on Definition of "protective equipment"—A commenter noted that in section 3025.7002–1(a)(2), there is a reference to "protective equipment (such as body armor)." The commenter contends that there are numerous types of protective equipment that may be subject to this regulation and requests that DHS clarify its intent with a definition of "protective equipment," as this term relates to the interim rule.

DHS response to the comment. Do not concur. This term is used in the statute and the Federal Acquisition Regulation without definition and is a readily understood term that does not require a definition.

Comment on Intent of "individual equipment"—A commenter points out in section 3025–7002–1(b)(7), there is a reference to "individual equipment manufactured from or containing any of the fibers, yarns, fabrics, or materials listed in this paragraph (b)." While the commenter recognizes that this language is taken from the Kissell Amendment, it is unclear to the commenter what type of equipment, other than those categories enumerated in paragraph (a), would be categorized as "individual equipment." For example, the commenter observes that the DoD Federal Supply Classification 8465 for "individual equipment" lists many of the same items listed in paragraph (a). The commenter requests that DHS clarify its intent with a definition of "individual equipment," as this term relates to the interim rule.

DHS response to the comment. Do not concur. The term "individual equipment" is not a category of specific items as listed in the Federal Supply Classes (FSC's), but, rather, it is a descriptive phrase. The phrase "individual equipment" could have been defined in section 604 to be limited to the FSC category 8465, Individual Equipment, but there is no indication in the section or its history that this category of covered items was intended to be limited only to FSC 8465. Accordingly, DHS intends to rely on the plain meaning of the phrase and will not limit it or define it further in this final rule.

Comment on Dual Use Safety Equipment—A commenter asks DHS to clarify whether the interim rule covers items acquired by the Department to protect DHS employees from exposure to recognized occupational health and safety hazards while these individuals are engaged in protecting the nation's borders, transportation system, maritime domain or critical infrastructure. The commenter suggests that one example might be high visibility safety apparel worn by those DHS employees in TSA or U.S. Customs and Border Protection (CBP), who work near moving vehicles and need to be highly visible to avoid being struck. Even though the workers are engaged in activities crucial to national security, the commenter states its belief that the Department does not intend that such dual-use protective equipment would fall under the "national security interests" definition of the rule.

DHS response to the comment. Do not concur. The HSAR definition of "directly related to the national security interests of the United States" is intended to be interpreted by DHS officials knowledgeable of individual items and individual acquisitions in a multitude of circumstances. DHS declines the invitation to determine in advance, divorced from context, and in a more detailed fashion than it has already, which items and which acquisitions are or are not likely to be covered.

Comment on Applicability to Grants—A commenter asks that DHS clarify that the interim rule does not apply to grant programs, such as the Assistance to Firefighters Grant Program, the Urban Area Security Initiative or the State Homeland Security Grant Program. The commenter believes the interim rule does not apply to DHS grant programs because it regulates Departmental acquisitions. The commenter also points out that DHS also notes that congressional floor remarks indicate this provision "as principally pertaining to border and transportation security * * *," while grant programs provide funds for state and local emergency response. Moreover, neither the HSAR nor the Homeland Security Acquisition Manual refers to grantees.

DHS response to the comment. To the extent that the commenter requests the HSAR implementation to affirmatively state that the section only applies to procurements, DHS declines the invitation. The HSAR applies only to contracts and does not apply to grants. There is no need to repeat in this rule that the HSAR is applicable only to contracts, nor is the HSAR an

appropriate place to determine grant policy or regulation.

Comment on Transition Period—Safe Harbor/Domestic Non-Availability Determination Request Period—Related to Section 3025.7002–2(c). A commenter asks DHS to establish a period during which DHS vendors may come into compliance with the interim rule and/or submit Domestic Non-Availability Determination (DNAD) requests.

DHS response to the comment. Do not concur. There is no authority in section 604 to extend or delay the period during which section 604 is effective.

Comment on Posting Training Material—A commenter urges DHS to make publicly available any guidance and training documents provided to contracting officers who will implement this interim rule. The commenter suggests that making such guidance and training documents publicly available will allow vendors and contracting officers to communicate with each other clearly and effectively about DHS procurements covered by this interim rule. Public availability is also argued to allow the vendor community to know what is expected of them and their products in advance of proposal submissions and final procurement decisions. The commenter states that clear, plain English guidance would be especially helpful for compliance with section 3025.7002–3 "Specific application of trade agreements."

DHS response to the comment. Concur. Training slides will be posted, as permitted by law and DHS policy, on a publicly available Web site for viewing and use by the public.

Comment on National Security—A commenter observes that DHS has adopted an unnecessarily restrictive definition of items "directly related to national security interests" for purposes of applying the Kissell Amendment. The commenter states that, furthermore, it appears that the interim rule intends to unnecessarily exclude certain textile products from operation of the Kissell Amendment. The commenter argues that the Kissell Amendment was intended to be an extension of the Berry Amendment to DHS and that, by creating a new definition for purposes of applying this amendment, DHS is undermining the intent of Congress and creating unnecessary complications in the procurement process. The commenter observes that the current rules governing the Berry Amendment apply to all goods at the DoD, except in certain limited instances. Within that spirit, the commenter believes that the final rule should not deviate in any manner from what the commenter argues is the original intent of Congress.

DHS response to the comment. Do not concur. The current Berry Amendment is not restricted in application to textile "items directly related to national security." DHS is not at liberty to ignore the plain language of a statute, which is the best evidence of congressional intent and, in this case, of the language to which the President assented. The Department believes that it came to the most accurate interpretation of this language in relation to the intent of Congress given the legislative record.

Comment on Normally Associated Components—A commenter argued that DHS should amend the HSAR so that components and materials normally associated with items listed in section 604(b)(1)(B)–(D) are not covered under section 604 unless the components and materials are otherwise specifically enumerated as a covered item in section 604. The commenter stated that, presumably, like the Berry Amendment, when an item is covered under section 604, it will only be compliant when the manufacturing of that item occurs in the United States, regardless of whether the non-covered components or materials are of domestic origin, *e.g.,* plastics. The commenter continues to state that, consequently, material and components that are normally associated with covered items should not be required to be compliant with section 604, except when they are specifically enumerated as a covered item under section 604.

DHS response to the comment. Concur in part. With respect to clothing covered by paragraph (b)(1)(A), section 604 exempts "other items not normally associated with" clothing. However, there is no such exemption for the other covered items addressed in other paragraphs of the section. DHS believes it is impractical to list all items that might not be normally associated with clothing in the regulation. DHS believes a better solution is to leave decisions to individual officials based on the facts of the situation.

Comment on Examples of Normally Associated Components—A commenter urged DHS to amend the HSAR to add examples of material and components that are normally associated with covered items, but which are not themselves covered. The commenter contends this will serve to eliminate confusion and assist industry to comply with section 604.

DHS response to the comment. Do not concur. Such a list would serve no purpose other than to deprive contracting officers of discretion, where a position may or may not be borne out by the facts of an individual acquisition. DHS believes a better solution is to leave decisions to individual officials based on the facts of the individual acquisition.

Comment on Para-aramid Fibers—A commenter suggested that DHS reach out to DoD in order to address the non-availability of fibers and yarns that are para-aramid fibers and yarns manufactured in qualifying countries, in a manner similar to exceptions granted by DoD. The commenter suggests DHS should determine if para-aramid fibers that are part of non-commercial items should be exempt (per a non-availability determination) (commercial para-aramid fibers are exempt under the interim rule).

DHS response to the comment. Concur in part. To the extent items are procured by DHS that include para-aramid fibers and are covered by section 604, cognizant programs will have to address availability of para-aramid fibers and this will undoubtedly involve contacting appropriate DoD officials.

Comment on Fire retardant thread non-availability—After stating a belief that this rule is an extension (to DHS) of the Berry Amendment, a commenter recounts a 2008 purchase of flame resistant uniforms for the U.S. Army at Ft. Belvoir in which the commenter worked within the boundaries of the Berry Amendment. However, the commenter found no domestic source for the thread needed to meet the fire resistant standards and had an exemption to have the uniform makers purchase the thread from Lenzing (Austria). The commenter believes DHS will need a way to likewise allow for exceptions not explicitly listed in the proposed rule, and should plan for that inevitable situation by indicating how exemption requests would need to be documented and approved (*e.g.,* by the Agency Head).

DHS response to the comment. Concur. The published rule describes who must approve the nonavailability exception (the DHS Chief Procurement Officer) and what information the request for approval must include. *See* 3025.7002–2(c) for details.

III. Regulatory Requirements

A. Small Entity Analysis

Because this rule was initiated as an interim rule, the Regulatory Flexibility Act requires neither an Initial nor a Final Regulatory Flexibility analysis. Nonetheless, we considered whether the interim rule would have a significant economic impact on a substantial number of small entities at 74 FR 41348–41349. We received no comments on our analysis and continue to believe that this rule would not have

a significant economic impact on a substantial number of small entities.

B. Executive Order 12866 (Regulatory Planning and Review)

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, and the Office of Management and Budget has not reviewed it under that Order.

C. 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 the rule so that they can better evaluate its effects on them and participate in the rulemaking. 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 DHS employees, call 1–888–REG–FAIR (1–888–734–3247). The DHS will not retaliate against small entities that question or complain about this interim rule or any DHS policy.

D. Collection of Information

The Paperwork Reduction Act (Pub. L. 104–13) does not apply because the rule contains no information collection requirements. Accordingly, the Department will not submit a change request for any burdens concerning this rule to the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 3025 and 3052

Government procurement.

■ Accordingly, the interim rule amending 48 CFR Parts 3025 and 3052 which was published at 74 FR 41346, on August 17, 2009, is adopted as a final rule without change.

Richard K. Gunderson,

Acting Chief Procurement Officer, Department of Homeland Security.

[FR Doc. 2010–13804 Filed 6–8–10; 8:45 am]

BILLING CODE 9110–9B–P

Proposed Rules

Federal Register
Vol. 75, No. 110
Wednesday, June 9, 2010

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 63, and 241

[EPA–HQ–OAR–2002–0058; EPA–HQ–OAR–2006–0790; EPA–HQ–OAR–2003–0119; EPA–HQ–RCRA–2008–0329; FRL–9160–8]

RIN 2060–AG69, RIN 2060–AM44, RIN 2060–AO12, RIN 2050–AG44

National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters; National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers; Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units; Identification of Non-Hazardous Secondary Materials That Are Solid Waste

AGENCY: Environmental Protection Agency.

ACTION: Notice of public hearings and extension of public comment period.

SUMMARY: On April 29, 2010, the EPA Administrator signed proposed emission standards for the following source categories: Industrial, Commercial, and Institutional Boilers and Process Heaters located at major sources; Industrial, Commercial, and Institutional Boilers located at area sources; and Commercial and Industrial Solid Waste Incineration Units. On the same date, the Administrator also signed a proposal entitled "Identification of Non-Hazardous Secondary Materials That Are Solid Waste." EPA has received a request to schedule additional public hearings for these four related rulemakings. Given the significant public interest in these rules and to further public participation opportunities, EPA is granting the request and has scheduled three public hearings. These hearings will occur in Arlington, Virginia, on June 15, 2010; Houston, Texas, on June 22, 2010; and Los Angeles, California, on June 22, 2010. More information on the locations is shown in **SUPPLEMENTARY INFORMATION**.

In addition, EPA is extending the deadline for written comments on the proposed rules (75 FR 32006 (major source boilers), 75 FR 31896 (area source boilers), 75 FR 31938 (CISWI), and 75 FR 31844 (waste definition)) to August 3, 2010. This extension will provide additional time for public participation.

DATES: *Comments.* Comments must be received on or before August 3, 2010.

Public Hearings. These hearings will occur in Arlington, Virginia, on June 15, 2010; Houston, Texas, on June 22, 2010; and Los Angeles, California, on June 22, 2010. Persons who wish to present oral testimony at the public hearings must register 2 business days prior to the hearings. The last day to register will be June 11, 2010, for the Arlington, Virginia, hearing and June 18, 2010, for the Houston, Texas, and Los Angeles, California, hearings. The registration cut-off time is 5 p.m. EDT on the final day of registration. *See* **SUPPLEMENTARY INFORMATION** for information on how to register. Note that the preregistration requirement only applies if you wish to present testimony.

ADDRESSES: Submit your comments, identified by one of the following Docket ID Nos., EPA–HQ–OAR–2002–0058 (Industrial, Commercial, and Institutional Boilers and Process Heaters located at major sources), EPA–HQ–OAR–2006–0790 (Industrial, Commercial, and Institutional Boilers located at area sources), EPA–HQ–OAR–2003–0119 (Commercial and Industrial Solid Waste Incineration Units), or EPA–HQ–RCRA–2008–0329 (Identification of Non-Hazardous Secondary Materials That Are Solid Waste), by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-docket@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* U.S. Postal Service, send comments to: EPA Docket Center (6102T), 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include as the second line of the address the name of the proposal that you are commenting on and the Docket ID No. Please include a total of two copies.
- *Hand Delivery:* In person or by courier, deliver comments to: EPA Docket Center (6102T), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20004. Please include as the second line of the address the name of the proposal that you are commenting on and the Docket ID No. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. Please include a total of two copies.

Instructions: Direct your comments to one of the following Docket ID Nos.: EPA–HQ–OAR–2002–0058, EPA–HQ–OAR–2006–0790, EPA–HQ–OAR–2003–0119, or EPA–HQ–RCRA–2008–0329. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index,

some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: If you would like to speak at the public hearing or have questions concerning the public hearing, please contact Ms. Teresa Clemons at the address given below under **SUPPLEMENTARY INFORMATION**. Questions concerning the proposed rules should be addressed to one the following contacts:

For major source boilers and process heaters, Mr. Brian Shrager, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Energy Strategies Group (D243–01), Environmental Protection Agency, Research Triangle Park, NC 27711, *telephone number:* (919) 541–7689; *fax number:* (919) 541–5450; *e-mail address:* shrager.brian@epa.gov.

For area source boilers, Ms. Mary Johnson, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Energy Strategies Group (D243–01), Environmental Protection Agency, Research Triangle Park, NC 27711, *telephone number:* (919) 541–5025; *fax number:* (919) 541–5450; *e-mail address: johnson.mary@epa.gov.*

For commercial and industrial solid waste incineration units, Ms. Charlene Spells, Natural Resources and Commerce Group, Sector Policies and Programs Division (E143–03), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; *telephone number:* (919) 541–5255; *fax number:* (919) 541–3470; *e-mail address: spells.charlene@epa.gov* or Ms. Toni Jones, Natural Resources and Commerce Group, Sector Policies and Programs Division (E143–03), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; *telephone number:* (919) 541–0316; *fax number:* (919) 541–3470; *e-mail address: jones.toni@epa.gov.*

For Identification of Non-Hazardous Secondary Materials That Are Solid Waste, Mr. George Faison, Program Implementation and Information Division, Office of Resource Conservation and Recovery, 5303P, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0002; *telephone number:* 703–305–7652; *fax number:* 703–308–0509; *e-mail address: faison.george@epa.gov.*

SUPPLEMENTARY INFORMATION:

Public Hearing

The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning the proposed rules. EPA may ask clarifying questions during the oral presentations, but will not respond formally to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearings. Written comments must be postmarked by the last day of the comment period, August 3, 2010.

The public hearings will be held at the following times and locations:

Arlington, VA—June 15, 2010, Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, VA 22202, *Phone:* (703) 920–3230,

Houston, TX—June 22, 2010, Hilton Houston Hobby Airport, 8181 Airport Boulevard, Houston, Texas 77061–4142, *Phone:* (713) 645–3000,

Los Angeles, CA—June 22, 2010, Sheraton Los Angeles Downtown Hotel, 711 South Hope Street, Los Angeles, CA 90017, *Phone:* (213) 488–3500.

The public hearings will begin at 9 a.m. and continue into the evening until 8 p.m. (local time) or later, if necessary, depending on the number of speakers wishing to participate. EPA is scheduling lunch breaks from 12:30 p.m. until 2 p.m. and dinner breaks from 5 p.m. to 6:30 p.m.

If you would like to present oral testimony at the hearings, please notify Ms. Teresa Clemons, EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Program Design Group (D205–02), Research Triangle Park, NC 27711, telephone number 919–541–0252, e-mail address: *clemons.teresa@epa.gov* (preferred method for registering). If using e-mail, please provide the following information: Time you wish to speak (morning, afternoon, evening), rule(s) that you will be commenting on, name, affiliation, address, e-mail address, and telephone and fax numbers.

EPA will make every effort to follow the schedule as closely as possible on the day of the hearings; however, please plan for the hearing to run either ahead of schedule or behind schedule. As noted above registration closes at 5 p.m. EDT 2 business days prior to each public hearing.

Oral testimony will be limited to 6 minutes for each commenter to address the proposal. We will not be providing equipment for commenters to show overhead slides or make computerized slide presentations. EPA encourages commenters to provide two copies of their oral testimony either electronically on computer disk, CD–ROM, or paper copy. The hearing schedule, including a list of speakers, will be posted on EPA's Web site for the proposal at *http://www.epa.gov/airquality/combustion* prior to the hearing. Verbatim transcripts of the hearings and written statements will be included in the rulemaking docket.

Comment Period

Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing. For the reasons noted above, the public comment period will now end on August 3, 2010. This extension of the public comment period will also allow for adequate time for public comment after the public hearings.

How can I get copies of the proposed rules and other related information?

The proposed rules were published on June 4, 2010, and can be accessed at the following Web site: *http://www.epa.gov/airquality/combustion.* EPA has established the public dockets for the proposed rulemakings under docket ID Nos. EPA–HQ–OAR–2002–0058, EPA–HQ–OAR–2006–0790, EPA–HQ–OAR–2003–0119, and EPA–HQ–RCRA–2008–0329, and a copy of the proposed rules are available in the dockets. Information on how to access the docket is presented above in the **ADDRESSES** section.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 4, 2010.

Gina McCarthy,

Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2010–13877 Filed 6–8–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2010–0003; Internal Agency Docket No. FEMA–B–1098]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

DATES: Comments are to be submitted on or before September 7, 2010.

ADDRESSES: The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each community is available for inspection at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA–B–1098, to Kevin C. Long, Acting Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2820, or (e-mail) *kevin.long@dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Kevin C. Long, Acting Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2820, or (e-mail) *kevin.long@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered. A letter acknowledging receipt of any comments will not be sent.

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

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

Executive Order 12866, Regulatory Planning and Review. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866, as amended.

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

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

List of Subjects in 44 CFR Part 67

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

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

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

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

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Woodbury County, Iowa, and Incorporated Areas				
Little Sioux River	Approximately 1,850 feet downstream of the City of Anthon corporate limits.	None	+1,100	Unincorporated Areas of Woodbury County.
	Approximately 1,900 feet upstream of the City of Anthon corporate limits.	None	+1,105	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Missouri River	Approximately 900 feet upstream of the Monona County boundary.	+1,066	+1,064	City of Sioux City, Unincorporated Areas of Woodbury County, Winnebago Indian Tribe.
	Approximately 500 feet downstream of the Dakota County boundary.	None	+1,090	
Perry Creek	Approximately 150 feet upstream of 6th Street	+1,111	+1,108	City of Sioux City.
	Approximately 225 feet upstream of Country Club Boulevard.	+1,145	+1,144	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Kevin C. Long, Acting Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Sioux City
Maps are available for inspection at 405 6th Street, Sioux City, IA 51101.

Unincorporated Areas of Woodbury County
Maps are available for inspection at 620 Douglas Street, 6th Floor, Sioux City, IA 51101.

Winnebago Indian Tribe
Maps are available for inspection at 100 Bluff Street, Winnebago, NE 68071.

Wyandotte County, Kansas, and Incorporated Areas

Marshall Creek	At the confluence with Wyandotte County Lake	None	+833	City of Kansas City.
	Approximately 80 feet downstream of North 99th Street.	None	+928	
Marshall Creek Tributary	At the confluence with Marshall Creek	None	+842	City of Kansas City.
	Approximately 2,000 feet upstream of Parallel Avenue	None	+916	
Missouri River	Approximately 3,500 feet downstream of the Fairfax Bridge.	+758	+756	City of Kansas City.
	Just upstream of I–635	+759	+758	
	At the confluence with Connor Creek	+765	+764	
Spring Creek	Approximately 700 feet upstream of 2nd Street	+785	+787	City of Bonner Springs.
	Just upstream of Lakewood Drive	+856	+857	
Wolf Creek	Approximately 1,500 feet downstream of Woodend Road.	+778	+777	City of Bonner Springs.
	Approximately 3,100 feet upstream of Kump Avenue	+792	+794	

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+ North American Vertical Datum.
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ADDRESSES

City of Bonner Springs
Maps are available for inspection at 205 East 2nd Street, Bonner Springs, KS 66012.

City of Kansas City
Maps are available for inspection at 701 North 7th Street, City Hall, Kansas City, KS 66101.

Grayson County, Kentucky, and Incorporated Areas

Ashcraft Branch (Backwater effects from Rough River Lake).	From the confluence with Rough River Lake to approximately 1,525 feet upstream of the confluence with Rough River Lake.	None	+524	Unincorporated Areas of Grayson County.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Big Run Branch (Backwater effects from Rough River Lake).	From the confluence with Rough River Lake to approximately 1,805 feet downstream of the confluence with Big Run Branch Tributary 7.	None	+524	Unincorporated Areas of Grayson County.
Browns Creek (Backwater effects from Rough River).	From the confluence with the Rough River to approximately 0.4 mile downstream of Olaton Road.	None	+427	Unincorporated Areas of Grayson County.
Buck Creek (Backwater effects from Caney Creek).	From the confluence with Caney Creek to approximately 675 feet upstream of the confluence with Buck Creek.	None	+467	Unincorporated Areas of Grayson County.
Caney Fork	At the confluence with North Fork	None	+427	City of Caneyville.
	Approximately 875 downstream of North Main Street	None	+471	Unincorporated Areas of Grayson County.
Cave Creek (Backwater effects from Rough River Lake).	From the confluence with Rough River Lake to approximately 0.6 mile upstream of the confluence with Cave Creek.	None	+524	Unincorporated Areas of Grayson County.
Conoloway Creek (Backwater effects from Nolin Lake).	From the confluence with Nolin Lake to approximately 1,510 feet upstream of Huffman Road.	None	+560	Unincorporated Areas of Grayson County.
Diamond Branch (Backwater effects from Rough River).	From the confluence with the Rough River to approximately 0.8 mile upstream of the confluence with the Rough River.	None	+439	Unincorporated Areas of Grayson County.
Grindstone Fork (Backwater effects from Nolin Lake).	From the confluence with Nolin Lake to approximately 1.6 mile upstream of the confluence with Nolin Lake.	None	+560	Unincorporated Areas of Grayson County.
Hunting Fork (Backwater effects from Nolin Lake).	From the confluence with Nolin Lake to approximately 0.5 mile upstream of Iberia Road.	None	+560	Unincorporated Areas of Grayson County.
Jarrett Fork (Backwater effects from Caney Creek).	From the confluence with Caney Creek to approximately 895 feet downstream of Walnut Grove Road.	None	+467	Unincorporated Areas of Grayson County.
Laurel Branch (Backwater effects from Rough River Lake).	From the confluence with the Rough River Lake to approximately 370 feet upstream of Clifty Church Drive.	None	+524	Unincorporated Areas of Grayson County.
Little Clifty Creek (Backwater effects from Rough River Lake).	From the confluence with the Rough River Lake to approximately 1,220 feet upstream of the confluence with Little Clifty Creek Tributary 12.	None	+524	Unincorporated Areas of Grayson County.
Little Short Creek (Backwater effects from Rough River).	From the confluence with the Rough River to approximately 200 feet upstream of Lone Hill Road.	None	+438	Unincorporated Areas of Grayson County.
Long Spring Branch (Backwater effects from Rough River).	From the confluence with the Rough River to approximately 0.6 mile upstream of the confluence with the Rough River.	None	+430	Unincorporated Areas of Grayson County.
Mistaken Creek (Backwater effects from Rough River).	From the confluence with the Rough River to approximately 5.0 miles upstream of Olaton Road.	None	+433	Unincorporated Areas of Grayson County.
Nolin Lake	Entire shoreline	None	+560	Unincorporated Areas of Grayson County.
Nolin River (Backwater effects from Nolin Lake).	From the confluence with Nolin Lake to approximately 0.7 mile upstream of the confluence with Nolin Lake.	None	+560	Unincorporated Areas of Grayson County.
North Fork	Approximately 1,000 feet upstream of the confluence with South Fork.	None	+472	City of Caneyville, Unincorporated Areas of Grayson County.
	Approximately at the confluence with Caney Creek	None	+472	
Person Branch (Backwater effects from Nolin Lake).	From the confluence with Nolin Lake to approximately 1.2 mile upstream of the confluence with Nolin Lake.	None	+560	Unincorporated Areas of Grayson County.
Peter Cave Creek (Backwater effects from Rough River Lake).	From the confluence with Rough River Lake to approximately 0.5 mile upstream of the confluence with Rough River Lake.	None	+524	Unincorporated Areas of Grayson County.
Pleasant Run (Backwater effects from Rough River).	From the confluence with the Rough River to approximately 1.6 mile upstream of the confluence with the Rough River.	None	+445	Unincorporated Areas of Grayson County.
Rock Creek (Backwater effects from Nolin Lake).	From the confluence with Nolin Lake to approximately 500 feet upstream of Horntown Road.	None	+560	Unincorporated Areas of Grayson County.
Rock Creek Tributary 14 (Backwater effects from Nolin Lake).	From the confluence with Rock Creek to approximately 0.6 mile upstream of the confluence with Rock Creek.	None	+560	Unincorporated Areas of Grayson County.
Rock Creek Tributary 15 (Backwater effects from Nolin Lake).	From the confluence with Nolin Lake to just downstream of Left Fork of Rock Creek Road.	None	+560	Unincorporated Areas of Grayson County.
Rough River	At the confluence with Browns Creek	None	+427	Unincorporated Areas of Grayson County.

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		Effective	Modified	
	Just downstream of Green Farms Road	None	+446	
Rough River Lake	Entire shoreline	None	+524	Unincorporated Areas of Grayson County.
Short Creek (Backwater effects from Spring Fork).	From the confluence with Spring Fork to approximately 0.7 mile upstream of the confluence with Spring Fork.	None	+438	Unincorporated Areas of Grayson County.
South Barton Run (Backwater effects from Nolin Lake).	From the confluence with Nolin Lake to approximately 1.0 mile upstream of the confluence with Nolin Lake.	None	+560	Unincorporated Areas of Grayson County.
South Fork (Backwater effects from North Fork).	From the confluence with North Fork to approximately 925 feet upstream of the confluence with North Fork.	None	+472	Unincorporated Areas of Grayson County, City of Caneyville.
Spring Fork (Backwater effects from Rough River).	From the confluence with the Rough River to just upstream of Owensboro Road.	None	+438	Unincorporated Areas of Grayson County.
Stones Hollow (Backwater effects from Rough River Lake).	From the confluence with Rough River Lake to approximately 0.4 mile upstream of the confluence with Rough River Lake.	None	+524	Unincorporated Areas of Grayson County.
Walter Creek (Backwater effects from Rough River Lake).	From the confluence with the Rough River Lake to approximately 1,010 feet downstream of Duff Road.	None	+524	Unincorporated Areas of Grayson County.
West Cane Run (Backwater effects from Caney Creek).	From the confluence with Caney Creek to approximately 1,900 feet upstream of the confluence with Caney Creek.	None	+466	Unincorporated Areas of Grayson County.
Wildcat Hollow (Backwater effects from Rough River Lake).	From the confluence with Rough River Lake to approximately 1,680 feet upstream of the confluence with Rough River Lake.	None	+524	Unincorporated Areas of Grayson County.

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+ North American Vertical Datum.
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ADDRESSES

City of Caneyville

Maps are available for inspection at City Hall, 104 North Main Street, Caneyville, KY 42721.

Unincorporated Areas of Grayson County

Maps are available for inspection at the Grayson County Judicial Building, Leitchfield, KY 42754.

Baltimore County, Maryland, and Incorporated Areas

Gwynns Falls	Just downstream of the confluence with Red Run	+440	+441	Unincorporated Areas of Baltimore County.
	Approximately 1,300 feet downstream of Painters Mill Road.	+444	+446	
Roland Run	Approximately 1,166 feet upstream of Joppa Road	+260	+261	Unincorporated Areas of Baltimore County.
	Approximately 810 feet downstream of Essex Farm Road.	+261	+262	

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ADDRESSES

Unincorporated Areas of Baltimore County

Maps are available for inspection at the Baltimore County Office Building, 111 West Chesapeake Avenue, Suite 307, Towson, MD 21204.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Marshall County, Mississippi, and Incorporated Areas				
Byhalia Creek	Approximately 200 feet downstream of the U.S. Route 178 Bridge.	None	+332	Town of Byhalia.
	Approximately 900 feet upstream of the Railroad Bridge.	None	+334	

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ADDRESSES

Town of Byhalia

Maps are available for inspection at 161 Highway 309 South, Byhalia, MS 38611.

Simpson County, Mississippi, and Incorporated Areas				
Pearl River	Approximately 1.2 mile downstream of the U.S. Route 28 Bridge.	None	+229	Unincorporated Areas of Simpson County.
	Approximately 1.0 mile upstream of the U.S. Route 28 Bridge.	None	+233	

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ADDRESSES

Unincorporated Areas of Simpson County

Maps are available for inspection at 100 Court Street, Room 2, Mendenhall, MS 39114.

Warren County, New Jersey (All Jurisdictions)				
Buckhorn Creek	At the confluence with the Delaware River	+224	+226	Township of Harmony.
	Approximately 850 feet upstream of the Hutchinson Station Road Bridge.	+225	+226	
Delaware River	Approximately 150 feet upstream of the Riegelsville Bridge.	+160	+161	Town of Belvidere, Town of Phillipsburg, Township of Hardwick, Township of Harmony, Township of Knowlton, Township of Lopatcong, Township of Pohatcong, Township of White.
	At the Sussex County boundary	None	+352	
Lopatcong Creek	At the confluence with the Delaware River	+188	+186	Town of Phillipsburg.
	Approximately 450 feet upstream of Waste Water Treatment Facility Driveway.	+188	+186	
Pequest River	At the confluence with the Delaware River	+254	+256	Town of Belvidere.
	Approximately 100 feet downstream of the Orchard Street Bridge.	+280	+284	

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

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ADDRESSES

Town of Belvidere
Maps are available for inspection at 691 Water Street, Belvidere Town Municipal Building, Belvidere, NJ 07823.

Town of Phillipsburg
Maps are available for inspection at 675 Corliss Avenue, Phillipsburg Town Municipal Building, Phillipsburg, NJ 08865.

Township of Hardwick
Maps are available for inspection at 40 Spring Valley Road, Hardwick Township Municipal Building, Hardwick, NJ 07825.

Township of Harmony
Maps are available for inspection at 3003 Belvidere Road, Harmony Township Municipal Building, Phillipsburg, NJ 08865.

Township of Knowlton
Maps are available for inspection at 628 Route 94, Knowlton Township Municipal Building, Columbia, NJ 07832.

Township of Lopatcong
Maps are available for inspection at 232 South 3rd Street, Lopatcong Township Municipal Building, Phillipsburg, NJ 08865.

Township of Pohatcong
Maps are available for inspection at 50 Municipal Drive, Pohatcong Township Municipal Building, Phillipsburg, NJ 08865.

Township of White
Maps are available for inspection at 555 County Road 519, White Township Municipal Building, Belvidere, NJ 07823.

Otsego County, New York (All Jurisdictions)

Charlotte Creek	At the confluence with the Susquehanna River	+1,101	+1,102	Town of Oneonta.
	Approximately 1,000 feet upstream of the confluence with the Susquehanna River.	+1,101	+1,102	
Glenwood Creek	At the confluence with the Susquehanna River	+1,082	+1,085	City of Oneonta, Town of Oneonta.
	Approximately 40 feet downstream of I–88	+1,084	+1,085	
Mill Race	At the confluence with the Susquehanna River	+1,079	+1,078	City of Oneonta.
	Approximately 450 feet upstream of River Street	+1,079	+1,078	
Otsdawa Creek	At the confluence with the Susquehanna River	+1,055	+1,056	Town of Otego, Village of Otego.
	Approximately 870 feet upstream of Main Street	+1,055	+1,056	
Otsego Lake	Entire shoreline	None	+1,193	Town of Middlefield, Town of Otsego, Town of Springfield.
Susquehanna River	Approximately 1,325 feet downstream of State Highway 8.	+985	+987	Town of Milford, City of Oneonta, Town of Oneonta, Town of Otego, Town of Unadilla, Village of Otego, Village of Unadilla.
	Approximately 3,840 feet upstream of State Highway 28.	None	+1,123	
Unadilla River	At the confluence with the Susquehanna River	+985	+987	Town of Butternuts, Town of Morris, Town of Pittsfield, Town of Unadilla, Village of Unadilla.
	Approximately 1.7 mile upstream of State Highway 80	None	+1,101	

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ADDRESSES

City of Oneonta
Maps are available for inspection at 258 Main Street, Oneonta City Hall, Oneonta, NY 13820.

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

Town of Butternuts
Maps are available for inspection at 3 Vale Street, Butternuts Town Hall, Gilbertsville, NY 13776.

Town of Middlefield
Maps are available for inspection at 2209 County Highway 33, Middlefield Town Hall, Cooperstown, NY 13326.

Town of Milford
Maps are available for inspection at 2859 State Route 28, Milford Town Hall, Milford, NY 13834.

Town of Morris
Maps are available for inspection at 93 Main Street, Morris Town Hall, Morris, NY 13808.

Town of Oneonta
Maps are available for inspection at 3966 State Highway 12, Oneonta Town Hall, West Oneonta, NY 13861.

Town of Otego
Maps are available for inspection at 3526 State Highway 7, Otego Town Hall, Otego, NY 13825.

Town of Otsego
Maps are available for inspection at 811 County Highway 26, Otsego Town Hall, Fly Creek, NY 13337.

Town of Pittsfield
Maps are available for inspection at 366 State Highway 80, Pittsfield Town Hall, New Berlin, NY 13411.

Town of Springfield
Maps are available for inspection at 8104 State Highway 80, Springfield Town Hall, Springfield Center, NY 13468.

Town of Unadilla
Maps are available for inspection at 1648 State Highway 7, Unadilla Town Hall, Unadilla, NY 13849.

Village of Otego
Maps are available for inspection at 4 River Street, Otego Village Hall, Otego, NY 13825.

Village of Unadilla
Maps are available for inspection at 193 Main Street, Unadilla Village Hall, Unadilla, NY 13849.

Stark County, Ohio, and Incorporated Areas

Broad-Monter Creek	At the upstream side of Ravenna Avenue	None	+1,110	Unincorporated Areas of Stark County.
	Approximately 650 feet upstream of Ravenna Avenue	None	+1,110	
	Approximately 320 feet downstream of Meese Road	None	+1,157	
	At the downstream side of Meese Road	None	+1,161	
Chatham Ditch	Approximately 900 feet upstream of 7th Street	None	+1,100	City of North Canton.
	Approximately 950 feet downstream of Holl Road	None	+1,121	
Clays Ditch	Approximately 1,300 feet upstream of Roanoke Street	None	+1,031	Unincorporated Areas of Stark County.
	Approximately 220 feet upstream of Knight Street	None	+1,039	
East Branch Nimishillen Creek.	Approximately 140 feet downstream of Beck Avenue	+1,082	+1,081	City of Louisville, Unincorporated Areas of Stark County.
	At the downstream side of Nickel Plate Avenue	+1,110	+1,109	
East Branch Nimishillen Creek (Backwater effects).	Approximately 650 feet upstream of the confluence with East Branch Nimishillen Creek and East Branch Nimishillen Creek Diversion.	+1,054	+1,050	City of Canton.
	Approximately 1,350 feet upstream of the confluence with East Branch Nimishillen Creek and East Branch Nimishillen Creek Diversion.	+1,054	+1,050	
Mahoning River	Approximately 1,400 feet downstream of Union Avenue.	None	+1,032	City of Alliance, Unincorporated Areas of Stark County.
	Approximately 0.86 mile upstream of Webb Avenue	None	+1,046	
Mahoning River Overflow	At the confluence with the Mahoning River	None	+1,045	City of Alliance, Unincorporated Areas of Stark County.
	At the divergence from the Mahoning River	None	+1,046	
McDowell Ditch	Approximately 140 feet upstream of Guilford Avenue	+1,046	+1,045	City of Canton, City of North Canton, Unincorporated Areas of Stark County.
	At the confluence with Zimber Ditch	+1,061	+1,062	
McDowell Ditch Overflow 1 (formerly McDowell Ditch Diversion Channel).	At the downstream side of I–77	+1,052	+1,051	Unincorporated Areas of Stark County.
	At the upstream side of I–77	+1,054	+1,053	

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McDowell Ditch Overflow 2 ...	At the confluence with McDowell Ditch Overflow 1	None	+1,054	City of Canton, Unincorporated Areas of Stark County.
	At the divergence from McDowell Ditch	None	+1,055	
Metzger Ditch	Approximately 160 feet downstream of Cain Street (Summit County boundary).	None	+1,107	Unincorporated Areas of Stark County.
	Approximately 1.18 mile upstream of Lake Center Street.	None	+1,124	
Middle Tributary	At the confluence with North Chapel Creek	None	+1,108	City of Louisville.
	At the downstream side of Atlantic Boulevard (U.S. Route 62).	None	+1,148	
North Chapel Creek	At the upstream side of Frana Clara Street	+1,106	+1,105	City of Louisville, Unincorporated Areas of Stark County.
	At the downstream side of Atlantic Boulevard (U.S. Route 62).	None	+1,144	
Plum Creek	Approximately 0.82 mile downstream of Manchester Avenue (State Route 93).	+946	+947	City of Canal Fulton, Unincorporated Areas of Stark County.
	At the downstream side of Akron Avenue	+1,014	+1,012	
Unnamed Tributary to East Branch Nimishillen Creek.	At the confluence with East Branch Nimishillen Creek	None	+1,085	City of Louisville, Unincorporated Areas of Stark County.
	At the downstream side of Georgetown Street	None	+1,105	
West Branch Nimishillen Creek.	Approximately 190 feet downstream of I–77	+1,044	+1,043	City of Canton, City of North Canton, Unincorporated Areas of Stark County.
	Approximately 700 feet downstream of Hoover Avenue.	None	+1,155	
West Branch Nimishillen Creek Overflow.	At the downstream side of Midway Street	None	+1,126	Unincorporated Areas of Stark County.
	Approximately 400 feet upstream of Midway Street	None	+1,130	
West Branch Nimishillen Creek Tributary 1.	At the confluence with West Branch Nimishillen Creek	+1,092	+1,090	Unincorporated Areas of Stark County.
	At the upstream side of State Street	None	+1,140	
West Sippo Creek	At the downstream side of Deermont Avenue	None	+995	City of Massillon, Unincorporated Areas of Stark County.
	At the downstream side of Manchester Avenue (State Route 93).	None	+1,034	
Zimber Ditch Tributary 1	Approximately 0.45 mile upstream of Beech Hill Road (Summit County boundary).	None	+1,107	Unincorporated Areas of Stark County.
	Approximately 1,080 feet upstream of Cleveland Avenue.	None	+1,164	
Zimber Ditch Tributary 1A	At the confluence with Zimber Ditch Tributary 1	None	+1,122	Unincorporated Areas of Stark County.
	Approximately 0.39 mile upstream of Burkey Road	None	+1,156	

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ADDRESSES

City of Alliance
Maps are available for inspection at 504 East Main Street, Alliance, OH 44601.

City of Canal Fulton
Maps are available for inspection at 155 East Market Street, Canal Fulton, OH 44614.

City of Canton
Maps are available for inspection at 424 Market Avenue North, Canton, OH 44702.

City of Louisville

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

Maps are available for inspection at 215 South Mill Street, Louisville, OH 44641.

City of Massillon

Maps are available for inspection at 151 Lincolnway East, Massillon, OH 44646.

City of North Canton

Maps are available for inspection at 220 West Maple Street, North Canton, OH 44720.

Unincorporated Areas of Stark County

Maps are available for inspection at 110 Central Plaza South, Canton, OH 44702.

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

Dated: May 14, 2010.

Sandra K. Knight,

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

[FR Doc. 2010–13859 Filed 6–8–10; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 02–6; FCC 09–105]

Schools and Libraries Universal Service Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) addresses matters related to the eligibility of products and services under the schools and libraries universal service support mechanism, also known as the E-rate program. Specifically, in this Further Notice of Proposed Rulemaking (FNPRM), we propose that the following services should not be eligible for funding under the E-rate program—separately priced firewall services, anti-virus/anti-spam software, scheduling services, wireless Internet access applications, and web hosting. We propose to revise the Commission's rules to establish that the Commission should not be required to list individual products and services (*e.g.,* voice mail) in the rules, but that such products and services will be listed in the Eligible Services List (ESL). We propose to require the Universal Service Administrative Company (USAC) to submit any proposed changes to the ESL to the Commission no later than March 30th of each year. Finally, we propose to eliminate the requirement that the ESL be released by public notice.

DATES: Comments on the proposed rules are due on or before July 9, 2010 and reply comments are due on or before July 26, 2010. Written comments on the Paperwork Reduction Act proposed information collection requirements should be submitted on or before August 9, 2010. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit comments, identified by CC Docket No. 02–6, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone: (202) 418–0530 or TTY: (202) 418–0432.
- In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to the Federal Communications Commission via e-mail to *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via e-mail to *Nicholas_A._Fraser@omb.eop.gov* or via fax at 202–395–5167.

For detailed instructions for submitting comments and additional information on the rulemaking process, *see* the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Cara Voth, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418–7400 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking in CC Docket No. 02–6, FCC 09–105, adopted December 1, 2009, and released December 2, 2009. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via the Internet at *http://www.bcpiweb.com.* It is also available on the Commission's Web site at *http://www.fcc.gov.*

Synopsis of the Notice of Proposed Rulemaking

I. Introduction

1. In this FNPRM, we seek comment on whether particular services should be designated as eligible for E-rate support. Specifically, we tentatively conclude that the Eligible Services List (ESL) should not include separately priced firewall services, anti-virus/anti-spam software, scheduling services, wireless Internet access applications, and web hosting should not be eligible for funding under the E-rate program. Alternatively, we propose that web hosting should be eligible for E-rate program funds as a Priority 2 service. We also propose to change our rules to establish that the Commission no longer needs to list individual products and services in the rules, but that such products and services will be listed in the ESL. We propose to change our rules to require the Universal Service Administrative Company (USAC) to submit any proposed changes to the ESL

to the Commission no later than March 30th of each year. Finally, we tentatively conclude to revise our rules to eliminate the requirement that the ESL be released by public notice.

II. Background

2. Under the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may receive discounts for eligible telecommunications services, Internet access, and internal connections. Section 254 of the Communications Act of 1934, as amended (the Act), gives the Commission the authority to designate "telecommunications services" and certain additional services eligible for support under the E-rate program. The Commission may also designate services eligible for E-rate support as part of its authority to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and non-profit elementary and secondary school classrooms and libraries.

3. Since the initial implementation of the E-rate program in 1998, and consistent with the Commission's rules and requirements, USAC has developed procedures and guidelines to ensure that E-rate funding is provided only for eligible services. Initially, the Commission directed USAC, in consultation with the Commission, to determine whether particular services fell within the eligibility criteria established under the Act and the Commission's rules and policies. USAC began to update and post to its Web site on an annual basis a list of services and products eligible to receive discounts under the E-rate program, now known as the ESL. In consultation with the Wireline Competition Bureau (Bureau), USAC updated the list to reflect any changes in rules that had occurred during the previous year and to address issues that arose in the application review process.

4. On December 23, 2003, the Commission adopted section 54.522 of its rules, formalizing the process for updating the ESL for the E-rate program. Specifically, under section 54.522 of the Commission's rules, the Commission must seek comment on USAC's proposed ESL and issue a public notice attaching the final ESL for the upcoming funding year at least 60 days prior to the opening of the application funding window for the E-rate program. In its current form, the ESL is divided into five main categories—telecommunications service, Internet access, internal connections, basic maintenance of internal connections, and miscellaneous.

5. In the *ESL NPRM* (73 FR 48352, August 19, 2008), released in July 2008, the Commission sought comment on issues related to eligible services that had been raised by commenters but had not yet been resolved through the ESL public notice and revision process. The Commission also sought comment on which rules, if any, would need to be amended to implement any changes made as a result of the *ESL NPRM.* Comments on the *ESL NPRM* were due on September 18, 2008, and reply comments were due on October 3, 2008.

III. Discussion

A. Services

6. In this FNPRM, we seek comment on the tentative conclusions we make regarding services discussed in the *ESL NPRM* that have not been addressed already. We tentatively conclude that separately priced firewall services, anti-virus and anti-spam software, teleconferencing scheduling services, and wireless Internet access applications, should not be added to the ESL. Additionally, we tentatively conclude that web hosting should not be eligible for funding under the E-rate program, or, alternatively, should only be eligible for E-rate program funds as a Priority 2 service.

7. *Firewall.* We tentatively conclude that we should decline to add separately priced firewall services to the ESL. In the 2007 ESL, the Commission clarified that only basic firewall services that are provided as a standard component of a vendor's Internet access service are eligible for E-rate program discounts. The E-rate program already funds basic firewall services, giving applicants a basic level of protection. We tentatively conclude that the inclusion of separately priced firewall services is not essential and may have an adverse effect on funds available for other already eligible services. We seek comment on this tentative conclusion and also ask that commenters provide examples of how separately priced firewalls are used by schools and libraries so that we can determine whether we should reexamine our tentative conclusion. We also seek comment on a suggested updated definition of basic firewall services and whether that would provide better guidance to applicants on what types of basic firewall services are eligible for E-rate funding.

8. *Anti-Virus/Anti-Spam Software.* We tentatively conclude that we should not add anti-virus and anti-spam software to the ESL and seek comment on this tentative conclusion. Anti-virus and anti-spam software is not an Internet access service itself but is a separate software application designed to enhance the operation of Internet access service. Only a few categories of software are eligible for E-rate funding, however, including operating system software, e-mail software, and software for a server-based, shared voice mail system. We tentatively conclude that anti-virus and anti-spam software should not be added to the list of eligible software under internal connections because this software does not fit into the categories of software that are currently on the ESL. Even if anti-virus and anti-spam software are generally considered necessary for the operation of e-mail, we believe that such products should not be funded because their addition to the ESL may have an adverse affect on the funds available for other services. We seek comment on these tentative conclusions.

9. *Scheduling Services.* We tentatively conclude that we should not adopt scheduling services as eligible for E-rate funding. As explained above, only operating system software, e-mail software, and software for a server-based, shared voice mail system have been approved for E-rate funding. Scheduling software allows schools and libraries to use video teleconferencing for distance learning by coordinating between locations. We believe that scheduling services, while potentially useful for schools and libraries, does not fit into the categories of software that are currently on the ESL. We also find that schools and libraries are able to use video teleconferencing for distance learning without scheduling services and therefore such services are not essential. The E-rate program is operated with a finite amount of funding and we tentatively conclude that funds should not be shifted from necessary components to add scheduling services to the program. We seek comment on this tentative conclusion.

10. *Web Hosting.* Web hosting, as an unbundled Internet access service, was added to the ESL in October 2003, for funding year 2004. In funding year 2004, Web hosting was described as an Internet service provided by an Internet service provider that will host a school or library's Web site (*http://www.schoolname.org*) as part of a bundled service offering, or as an optional service. Because Web hosting is listed in the ESL as Internet access, it is funded under the E-rate program as a Priority 1 service. Although Web hosting has been included as part of Internet access, we now seek comment on whether Web hosting should

continue to be eligible for funding under the category of Priority 1 Internet access. We tentatively conclude that Web hosting should not be eligible for funding under the E-rate program, or, alternatively, should only be eligible for E-rate program funds as a Priority 2 service. We tentatively conclude that we should remove Web hosting from the ESL because, while many school districts find Web hosting to be a useful way to post information for parents and the community, we do not believe it is essential to the educational purposes of schools and libraries. We seek comment on this tentative conclusion.

11. If we decide to retain Web hosting on the ESL, we tentatively conclude that Web hosting is not Internet access or an information service and it should move to Priority 2. In funding year 2004, there was a presumption in the ESL description of Web hosting that Web hosting was to be provided by an Internet service provider. In today's marketplace, Web hosting vendors are not necessarily Internet service providers, and although a basic Web hosting service is comprised of the physical rental of space on a vendor's server for the hosting of an applicant's Web site, Web hosting service has greatly evolved with a variety of optional features. To the extent the Commission adopts the tentative conclusion that Web hosting service is eligible as a Priority 2 service, what aspects of this service should be eligible and how should an eligible Priority 2 Web hosting service be described in the ESL? Also, should contracts between Web hosting vendors and applicants be itemized to show the pricing of E-rate eligible features and elements of Web hosting?

12. *Wireless Internet Access Applications.* We tentatively conclude that certain wireless Internet access applications including, but not limited to, services that could be used on school buses to transmit emergency information, track students, and locate buses with GPS technology, are ineligible for E-rate support. We seek comment on this tentative conclusion. To the extent commenters support E-rate funding on these services we seek comment on how or why these applications would serve an educational purpose. Like scheduling software, we find that wireless Internet access applications are non-essential services and we tentatively conclude that we should not add them to the ESL at this time. We seek comment on this tentative conclusion.

B. Administrative Matters Related to the ESL

13. *Commission's Rules Regarding Eligible Services.* Currently, sections 54.502 and 54.503 of the Commission's rules state that telecommunications carriers may provide telecommunications, Internet access, and internal connections; section 54.506 defines internal connections; section 54.517 provides that non-telecommunications carriers may provide voice mail, Internet access, and internal connections; and section 54.518 describes the wide area network services that will be supported. We tentatively conclude that the rules should be restructured so that all of the provisions relating to eligible services be located in the same place and seek comment on this tentative conclusion. We seek comment on the proposed restructure of these rules.

14. The Commission rules that address the services that are eligible for E-rate support generally provide that telecommunications, Internet access, internal connections, and basic maintenance are eligible for E-rate support. They also, however, refer to specific services such as voice mail or wide area network. The ESL also lists specific services that are eligible for E-rate support, *e.g.,* Centrex is listed as a supported service under the telecommunications services category. Applicants may be confused by the differences between the Commission's rules and the ESL. Thus, we propose that the rules regarding eligible services should make clear that the specific services eligible for support under the general categories of telecommunications, Internet access, and internal connections will be listed in the ESL and not specifically named in the Commission's rules. We tentatively conclude that any reference to specific services or products in the rules should be removed and instead the rules should state that all products and services eligible for E-rate support will be listed in the ESL. We seek comment on this tentative conclusion.

15. Section 54.522 of the Commission's rules provides a process by which the ESL can be changed from funding year to funding year. The process requires USAC to submit any proposed changes to the ESL for the following funding year by June 30th of each year to the Commission so that the Commission can release such proposals by public notice for comment. Any final changes to the ESL for the following funding year are voted on and released after this comment period. We find that this process provides the public with ample notice of any potential changes to the eligibility status of certain products and services. Requiring the Commission to change its rules with the addition of each new service or change to the ESL does not enable USAC and Commission to keep up with the rapidly changing needs of schools and libraries to access telecommunications and advanced services. We find that our tentative conclusion to remove from our rules all references to specific services eligible for support will provide the Commission with the flexibility to make E-rate discounts available on new and improved products and services in a fluid yet predictable environment. We seek comment on the reasons we have provided for our tentative conclusion. We also seek comment on any alternative proposals or ideas that would better inform the public of the services that are eligible for E-rate support.

16. Because we tentatively conclude that reference to specific services should not be made in the rules, we propose to remove section 54.518 from our rules. Section 54.518 states that applicants cannot receive E-rate support to build or purchase a WAN. Instead, the program's requirements pertaining to WANs will be included in the ESL. We emphasize that this proposal will not change the current eligibility of WANs. We seek comment on our tentative conclusion to delete this rule.

17. In addition, we tentatively conclude that we should change the name of the category of supported services currently called "Internet access" to "Internet access and information services" in the ESL. We have defined Internet access as "basic conduit access to the Internet." The current ESL, however, also includes e-mail under the category of "Internet access." While e-mail uses the Internet, it is not, itself, Internet access. As such, we believe including "information services" in the descriptive title of the category would more accurately reflect the type of services eligible. We seek comment on this proposed change.

18. *Commission's Rules Regarding the ESL Process.* We tentatively conclude that we should change the process by which the Commission adopts changes to the ESL. First, we tentatively conclude that USAC should file its proposed ESL with the Commission no later than March 30th each year. Section 54.522 of the Commission's rules requires USAC to submit a draft ESL with any proposed changes to the Commission by June 30th of each year. The Commission then releases a public notice seeking comment on USAC's proposed ESL. Section 54.522 of the

Commission's rules requires the Commission to release the final ESL at least 60 days prior to the opening of the application filing window for the next E-rate funding year. For the last two years, USAC has opened the application filing window in early November for funding year 2008 and early December for funding year 2009. The current rule, therefore, allows approximately three months for the Commission to release the proposed draft of the ESL, for the public to review and comment on the draft, and for the Commission to release the final ESL. We have found that we have not had enough time to complete all of the steps required by the rule and release the final ESL 60 days prior to the opening of the application filing window. Indeed, on at least three prior occasions, as we have done this year, we have waived section 54.522 to allow USAC to open the application filing window without having to wait 60 days from the release of the final ESL. We find that requiring USAC to submit the proposed ESL earlier will allow additional time for the Commission to review the proposal and to review and analyze public comment on the proposed ESL. In the alternative, we seek comment from the public on any other methods by which we can streamline this process and keep it one that allows for ample public notice and opportunities for public participation.

19. We also tentatively conclude that we should change the provision in section 54.522 of the Commission's rules that requires the Commission to issue a public notice seeking comment on USAC's proposed annual changes to the ESL and another public notice announcing the release of the final ESL for the upcoming funding year. Specifically, we believe the rules should be changed to remove the requirement that the ESL be released as a public notice by the Commission. This will provide the Commission with flexibility to provide, for example, more detailed explanations regarding changes to the ESL in an order when it deems necessary. We seek comment on this tentative conclusion.

Procedural Matters

Initial Regulatory Flexibility Act Analysis

20. The Regulatory Flexibility Act (RFA), *see* 5 U.S.C. 603, requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." *See* 5 U.S.C. 605(b). The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." 5 U.S.C. 601(6). In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. 5 U.S.C. 601(3). A "small business concern" is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). 15 U.S.C. 632.

21. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the FNPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM. The Commission will send a copy of this FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the FNPRM (or summary thereof) will be published in the **Federal Register.**

1. Need for, and Objectives of, the Proposed Rules

22. The Commission is required by section 254 of the Act to promulgate rules to implement the universal service provisions of section 254. On May 8, 1997, the Commission adopted rules to reform its system of universal service support mechanisms so that universal service is preserved and advanced as markets move toward competition. Specifically, under the schools and libraries universal service support mechanism, also known as the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may receive discounts for eligible telecommunications services, Internet access, and internal connections. Since the initial implementation of the E-rate program, USAC has developed various procedures and guidelines, consistent with the Commission's rules and requirements, to ensure that funding is provided only for eligible services.

23. Pursuant to the Commission's rules, the Commission released the Public Notice seeking comment on USAC's proposed ESL for Funding Year 2010. The ESL indicates whether specific products or services are eligible for discounts under the E-rate program. In *2009 ESL Public Notice,* we noted that this proceeding is limited to determining what services are eligible under the Commission's current rules and is generally not intended to be a vehicle for changing any eligibility rules. We also noted, however, that the Commission sought comment on various issues including the eligibility of specific services in the *ESL NPRM* released last year and invited parties that wanted their *ESL NPRM* comments considered in response to the public notice to refile those comments.

24. In the FNPRM, we seek comment on the Commission's tentative conclusion that the ESL should not add separately-priced firewall services, anti-virus/anti-spam software, scheduling services, and wireless Internet access applications. The Commission agrees with commenters that these services are either not eligible under the Act or are not essential to furthering the goals and purposes of the E-rate program. Further, we agree with commenters that paying for the discount on these services would have an adverse effect on services that are already being funded. We also seek comment on the Commission's tentative conclusion that Web hosting should not be eligible for funding under the E-rate program, or, alternatively, should only be eligible for E-rate program funds as a Priority 2 service. The Commission does not believe that Web hosting is essential to the educational purposes of schools and libraries. We also seek comment on changes to our rules to establish that specific eligible products and services should be listed in the ESL as opposed to being listed individually in the rules. We seek comment on our tentative conclusions on the process for developing the ESL, including requiring the Universal Service Administrative Company (USAC) to submit any proposed changes to the ESL to the Commission no later than March 30th of each year. Finally, we seek comment on the Commission's tentative conclusion to revise our rules to eliminate the requirement that the ESL be released by public notice, which would provide the Commission the flexibility to release the ESL by order. All of these administrative changes would bring clarity and transparency to the ESL process and would benefit all participants in the program.

2. Legal Basis

25. The legal basis for the FNPRM is contained in sections 1 through 4, 201 through 205, 254, 303(r), and 403 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. 151 through 154, 201 through 205, 254, 303(r), and 403,

and section 1.411 of the Commission's rules, 47 CFR 1.411.

3. Description and Estimate of the Number of Small Entities to Which Rules May Apply

26. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Nationwide, there are a total of approximately 22.4 million small businesses, according to SBA data. A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 2002, there were approximately 1.6 million small organizations. "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. We estimate that, of this total, 84,377 entities were "small governmental jurisdictions." Thus, we estimate that most governmental jurisdictions are small.

27. Small entities potentially affected by the proposals herein include eligible schools and libraries and the eligible service providers offering them discounted services, including telecommunications service providers, Internet Service Providers (ISPs), and vendors of the services and equipment used for internal connections.

28. *Schools.* As noted, "small entity" includes non-profit and small government entities. Under the schools and libraries universal service support mechanism, which provides support for elementary and secondary schools, an elementary school is generally "a non-profit institutional day or residential school that provides elementary education, as determined under state law." A secondary school is generally defined as "a non-profit institutional day or residential school that provides secondary education, as determined under state law," and not offering education beyond grade 12. For-profit schools, and schools and libraries with endowments in excess of $50,000,000, are not eligible to receive discounts under the program. Certain other statutory definitions apply as well. The SBA has defined for-profit, elementary and secondary schools having $7 million or less in annual receipts as small entities. In funding year 2007 approximately 105,500 schools received funding under the schools and libraries universal service mechanism. Although we are unable to estimate with precision the number of these entities that would qualify as small entities under SBA's size standard, we estimate that fewer than 105,500 schools might be affected annually by our action, under current operation of the program.

29. *Libraries.* As noted, "small entity" includes non-profit and small government entities. Under the schools and libraries universal service support mechanism, which provides support for libraries, the definition of library includes public libraries, public elementary school or secondary school libraries, academic libraries, certain research libraries and private libraries where the state has determined that the library should be considered a library for purposes of this definition. For-profit libraries are not eligible to receive discounts under the program, nor are libraries whose budgets are not completely separate from any schools. Certain other statutory definitions apply as well. The SBA has defined for-profit libraries having $7 million or less in annual receipts as small entities. In funding year 2007 approximately 10,950 libraries received funding under the schools and libraries universal service mechanism. Although we are unable to estimate with precision the number of these entities that would qualify as small entities under SBA's size standard, we estimate that fewer than 10,950 libraries might be affected annually by our action, under current operation of the program.

30. *Incumbent Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small incumbent local exchange services. The closest size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,311 incumbent carriers reported that they were engaged in the provision of local exchange services. Of these 1,311 carriers, an estimated 1,024 have 1,500 or fewer employees and 287 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies adopted herein.

31. We have included small incumbent local exchange carriers in this RFA analysis. A "small business" under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not "national" in scope. We have therefore included small incumbent carriers in this RFA analysis, although we emphasize that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts.

32. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for wired telecommunications carriers. This provides that a wired telecommunications carrier is a small entity if it employs no more than 1,500 employees. According to the Commission's *2008 Trends Report,* 300 companies reported that they were engaged in the provision of interexchange services. Of these 300 IXCs, an estimated 268 have 1,500 or few employees and 32 have more than 1,500 employees. Consequently, the Commission estimates that most providers of interexchange services are small businesses that may be affected by the rules and policies adopted herein.

33. *Competitive Access Providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive access services providers (CAPs). The closest applicable definition under the SBA rules is for wired telecommunications carriers. This provides that a wired telecommunications carrier is a small entity if it employs no more than 1,500 employees. According to the *2008 Trends Report,* 1,005 CAPs and competitive local exchange carriers (competitive LECs) reported that they were engaged in the provision of competitive local exchange services. Of these 1,005 CAPs and competitive LECs, an estimated 918 have 1,500 or few employees and 87 have more than 1,500 employees. Consequently, the

Commission estimates that most providers of competitive exchange services are small businesses that may be affected by the rules and policies adopted herein.

34. *Wireless Telecommunications.* Neither the Commission nor the SBA has developed a definition of small entities specifically for wireless telephony. The closest definition is the SBA definition for wireless telecommunications (except satellite). Under this definition, a cellular licensee is a small entity if it employs no more than 1,500 employees. According to the *2008 Trends Report,* 434 providers classified themselves as providers of wireless telephony, including cellular telecommunications, Personal Communications Service, and Specialized Mobile Radio (SMR) Telephony Carriers. Of these 437 wireless telephony providers, an estimated 222 have 1,500 or few employees and 212 have more than 1,500 employees. Consequently, the Commission estimates that more than half of the providers of wireless telephony services are small businesses that may be affected by the rules and policies adopted herein.

35. *Other Wireless Services.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to wireless services other than wireless telephony. The closest applicable definition under the SBA rules is again that of wireless telecommunications (except satellite), under which a service provider is a small entity if it employs no more than 1,500 employees. According to the *2008 Trends Report,* 69 providers classified themselves as wireless data carriers or other mobile service providers. Of these 69 providers, an estimated 65 have 1,500 or few employees and 4 have more than 1,500 employees. Consequently, the Commission estimates that most providers of wireless services other than wireless telephony are small businesses that may be affected by the rules and policies adopted herein.

36. *Paging and Messaging Service Providers.* In the *Paging Third Report and Order,* we developed a small business size standard for "small businesses" and "very small businesses" for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A "small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a "very small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. At present, there are approximately 24,000 Private-Paging site-specific licenses and 74,000 Common Carrier Paging licenses. According to Commission data, 281 carriers reported that they were engaged in the provision of paging services, messaging services, or other mobile services. Of those, the Commission estimates that 279 are small, under the SBA approved small business size standard.

37. *Internet Service Providers.* Under the category of Internet service provider, a small business is one having annual receipts of $23 million or less. According to SBA data, there are a total of 2,829 firms with annual receipts of less than $10 million, and an additional 111 firms with annual receipts of $10 million or more. Thus, the number of On-line Information Services firms that are small under the SBA's $18 million size standard is between 2,829 and 2,940. Further, some of these Internet Service Providers (ISPs) might not be independently owned and operated. Consequently, we estimate that there are fewer than 2,940 small entity ISPs that may be affected by the decisions and rules of the present action.

38. *Vendors of Internal Connections—Communications Equipment Manufacturers.* The Commission has not developed a definition of small entities applicable to the manufacturers of internal network connections. The most applicable definitions of a small entity are the definitions under the SBA rules applicable to manufacturers of "Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing" and "Other Communications Equipment Manufacturing." According to the SBA's regulations, manufacturers of these types of communications equipment must have 750 or fewer employees in order to qualify as a small business. The most recent available Census Bureau data indicates that there are 1,187 companies with fewer than 1,000 employees in the United States that manufacture radio and television broadcasting and communications equipment, and 271 companies with less than 1,000 employees that manufacture other communications equipment. Some of these manufacturers might not be independently owned and operated. Consequently, we estimate that there are fewer than 1,458 small entity internal connections manufacturers that may be affected by the decisions and rules of the present action.

39. *Vendors of Internal Connections—Wireless Communications Equipment Manufacturers.* The SBA has established a small business size standard for radio and television broadcasting and wireless communications equipment manufacturing. Under this standard, firms are considered small if they have 750 or fewer employees. Census Bureau data for 1997 indicate that, for that year, there were a total of 1,215 establishments in this category. Of those, there were 1,150 that had employment under 500, and an additional 37 that had employment of 500 to 999. The percentage of wireless equipment manufacturers in this category is approximately 61 percent, so the Commission estimates that the number of wireless equipment manufacturers with employment under 500 was actually closer to 706, with an additional 23 establishments having employment of between 500 and 999. Given the above, the Commission estimates that the majority of wireless communications equipment manufacturers are small businesses.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

40. The FNPRM does not result in additional recordkeeping requirements for small businesses. To the extent that new items are added to the ESL, schools, libraries and service providers will merely have additional choices of services eligible for discount when they voluntarily participate in the E-rate program. Likewise, removing or not adding a service to the ESL would have no additional impact on recordkeeping requirements.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

41. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance and reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from

coverage of the rule, or part thereof, for small entities.

42. In the FNPRM, we seek comment on a number of issues related to services eligible for E-rate discounts, including issues raised by the commenters that may not have been addressed as part of prior ESL proceedings. Specifically, we determine that anti-virus and anti-spam software and other services should not be added to the ESL. We believe that keeping these services off the ESL will not have an adverse impact on small entities since the services were never funded in the first place. Applicants and service providers have never had an expectation that E-rate discounts would apply to these services and will therefore not be harmed by a decision to maintain the status quo. We seek comment on this tentative conclusion.

43. We also make the tentative conclusion that web hosting be removed from the ESL. We propose, however, that this change should be implemented in the funding year following the rule change. This will give applicants affected by the removal of web hosting time to find alternative funds for the service, if necessary. Delaying the removal of web hosting will also mitigate any economic impact on those small entities providing the service. In addition, we propose additional outreach from USAC to inform and educate applicants and service providers on the change. We seek comment on these proposals to mitigate the impact of removing web hosting and seek comment generally on the economic impact of this tentative decision.

44. We also make tentative conclusions regarding administrative matters such as restructuring the eligible services rules, requiring USAC to submit a proposed draft ESL to the Commission on March 30th of each year, and revising our rules to state that all products and services eligible for E-rate support will be named in the ESL. We believe these changes will have no economic impact on entities participating in the E-rate program and, indeed, will benefit participants by making the rules and application process easier to understand and administer. We welcome, however, comments from parties that have opinions different from those reached in this analysis.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

45. None.

Paperwork Reduction

46. This FNPRM does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Ex Parte Presentations

47. These matters shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. 47 CFR 1.1200 through 1.1216. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. 47 CFR 1.1206(b)(2). Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission's rules. 47 CFR 1.1206(b).

C. Comment Filing Procedures

48. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/* or the Federal eRulemaking Portal: *http://www.regulations.gov*.
- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Effective December 28, 2009, all hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW–A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington DC 20554.
- In addition, one copy of each comment or reply comment must be sent to Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW., Room 5–A452, Washington, DC 20554; e-mail: *Charles.Tyler@fcc.gov*.

People with Disabilities: 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 & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Ordering Clauses

49. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1 through 4, 201–205, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151 through 154, 201 through 205, 254, 303(r), and 403, this further notice of proposed rulemaking *is adopted*.

50. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this further notice of proposed rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 54 to read as follows:

PART 54—UNIVERSAL SERVICE

1. The authority citation continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 201, 205, 214, and 254 unless otherwise noted.

Subpart F—Universal Service Support for Schools and Libraries

2. Section 54.502 is revised to read as follows:

§ 54.502 Supported services.

(a) *Telecommunications services.* For purposes of this subpart, supported telecommunications services provided by telecommunications carriers include all commercially available telecommunications services in addition to all reasonable charges that are incurred by taking such services, such as state and federal taxes. Charges for termination liability, penalty surcharges, and other charges not included in the cost of taking such service shall not be covered by the universal service support mechanisms. All supported telecommunications services are defined and listed in the Eligible Services List as updated annually in accordance with § 54.503 of the Commission's rules.

(b) *Internet access and information services.* For purposes of this subpart, supported Internet access and information services include basic conduit access to the Internet and all the services defined in § 54.5 of the Commission's rules as Internet access. All supported Internet access and information services are defined and listed in the Eligible Services List as updated annually in accordance with § 54.503 of the Commission's rules.

(c) *Internal connections.*

(1) For purposes of this subpart, a service is eligible for support as a component of an institution's internal connections if such service is necessary to transport information within one or more instructional buildings of a single school campus or within one or more non-administrative buildings that comprise a single library branch. Discounts are not available for internal connections in non-instructional buildings of a school or school district, or in administrative buildings of a library, to the extent that a library system has separate administrative buildings, unless those internal connections are essential for the effective transport of information to an instructional building of a school or to a non-administrative building of a library. Internal connections do not include connections that extend beyond a single school campus or single library branch. There is a rebuttable presumption that a connection does not constitute an internal connection if it crosses a public right-of-way. All supported internal connections are defined and listed in the Eligible Services List as updated annually in accordance with § 54.503 of the Commission's rules.

(2) *Basic maintenance services.* For purposes of this subpart, basic maintenance services shall be eligible as an internal connections service if, but for the maintenance at issue, the internal connection would not function and serve its intended purpose with the degree of reliability ordinarily provided in the marketplace to entities receiving such services. Basic maintenance services do not include services that maintain equipment that is not supported or that enhance the utility of equipment beyond the transport of information, or diagnostic services in excess of those necessary to maintain the equipment's ability to transport information. All supported basic maintenance is defined and listed in the Eligible Services List as updated annually in accordance with § 54.503 of the Commission's rules.

(3) Frequency of discounts for internal connections services. Each eligible school or library shall be eligible for support for internal connections services, except basic maintenance services, no more than twice every five funding years. For the purpose of determining eligibility, the five-year period begins in any funding year in which the school or library receives discounted internal connections services other than basic maintenance services. If a school or library receives internal connections services other than basic maintenance services that are shared with other schools or libraries (for example, as part of a consortium), the shared services will be attributed to the school or library in determining whether it is eligible for support.

(d) Non-telecommunications carriers shall be eligible for universal service support under this subpart for providing the supported services described in paragraph (b) and (c) of this section for eligible schools, libraries, and consortia including those entities. Such services provided by non-telecommunications carriers shall be subject to all the provisions of this subpart, except §§ 54.501(a), 54.502(a), and 54.515.

3. Section 54.503 is revised to read as follows:

§ 54.503 Eligible services list.

(a) The Administrator shall submit by March 30 of each year a draft list of services eligible for support, based on the Commission's rules, in the following funding year. The Wireline Competition Bureau will issue a Public Notice seeking comment on the Administrator's proposed eligible services list. At least 60 days prior to the opening of the window for the following funding year, the final list of services eligible for support will be released.

(b) All supported services are defined and listed in the Eligible Services List as updated annually in accordance with paragraph (a) of this section.

§ 54.506 [Removed and Reserved]

4. Remove and reserve § 54.506.

§§ 54.517 and 54.518 [Removed and Reserved]

5. Remove and reserve §§ 54.517 and 54.518.

§ 54.522 [Removed and Reserved]

6. Remove and reserve § 54.522.

[FR Doc. 2010–12931 Filed 6–8–10; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 02–6; GN Docket No. 09–51; FCC 10–83]

Schools and Libraries Universal Service Support Mechanism, A National Broadband Plan for Our Future

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on several potential reforms that would cut red tape by eliminating rules that have not effectively served their intended purpose, while continuing to protect against waste, fraud, and abuse. In addition, the Commission seeks comment on how to provide stability and certainty for the funding of internal connections that are necessary to deliver higher bandwidth services to the classroom and how to expand access to funding for internal connections for schools and libraries serving impoverished populations. Finally, the

Commission seeks comment on indexing the funding cap to inflation, which would make additional funding available to support current and new services to deliver the full benefits of the Internet to all.

DATES: Comments on the proposed rules are due on or before July 9, 2010 and reply comments are due on or before July 26, 2010. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before August 9, 2010. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit comments, identified by CC Docket No. 02–6 and GN Docket No. 09–51, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, *etc.*) *by e-mail: FCC504@fcc.gov* or *phone:* (202) 418–0530 or *TTY:* (202) 418–0432.
- In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to the Federal Communications Commission via e-mail to *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via e-mail to *Nicholas_A._Fraser@omb.eop.gov* or via fax at 202–395–5167.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Regina Brown at (202) 418–0792 or James Bachtell at (202) 418–2694, Wireline Competition Bureau, Telecommunications Access Policy Division or TTY: (202) 418–0484. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an e-mail to *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via e-mail to *Nicholas_A._Fraser@omb.eop.gov* or via fax at 202–395–5167.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking in CC Docket No. 02–6, GN Docket No. 09–51, FCC 10–83, adopted May 20, 2010, and released May 20, 2010. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via the Internet at *http://www.bcpiweb.com.* It is also available on the Commission's Web site at *http://www.fcc.gov.*

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121, May 1, 1998.

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the Web site for submitting comments.
- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov,* and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

People with Disabilities: 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 & Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY). Contact the FCC to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CART, etc.) by *e-mail: fcc504@fcc.gov; phone:* (202) 418–0530 or (202) 418–0432 (TTY).

In addition, one copy of each pleading must be sent to each of the following:

- The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554; *Web site: http://www.bcpiweb.com; phone:* 1–800–378–3160; and
- Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW., Room 5–A452, Washington, DC 20554; *e-mail: Charles.Tyler@fcc.gov* or telephone number (202) 418–7400.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. Copies may also be purchased from the

Commission's duplicating contractor, BCPI, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI through its *Web site: http://www.bcpiweb.com,* by e-mail at *fcc@bcpiweb.com,* by telephone at (202) 488–5300 or (800) 378–3160 (voice), (202) 488–5562 (TTY), or by facsimile at (202) 488–5563.

Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with § 1.49 and all other applicable sections of the Commission's rules. We direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission. We also strongly encourage parties to track the organization set forth in the NPRM in order to facilitate our internal review process.

Initial Paperwork Reduction Act of 1995 Analysis: This document contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due August 9, 2010.

Comments on the proposed information collection requirements should address: (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 estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0853.

Title: FCC Form 479, Certification by Administrative Authority to Billed Entity of Compliance with Children's Internet Protection Act; FCC Form 486, Receipt of Service Confirmation Form, FCC Form 500, Funding Commitment Change Request Form.

Form Number(s): FCC Forms 479, 486, 500.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit and not-for-profit institutions.

Number of Respondents and responses: 45,300 respondents and 45,300 responses.

Estimated Time per Response: .25–1.5 hours (average time per response).

Obligation to Respond: Required to obtain or retain benefits.

Frequency of Response: Annual and on occasion reporting requirements, recordkeeping and third party disclosure requirements.

Total Annual Burden: 63,720 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: No impact.

Nature of 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 existing information collection requires schools and libraries to report on the FCC Form 500 to the Universal Service Administrative Company (USAC) the disposal of equipment purchased with an E-rate discount for payment or other consideration. *This revision has no effect on FCC Forms 479 and 486 (and Internet policy statement), which are also part of this information collection. This revision specifically pertains to the FCC Form 500. This revision also adds or corrects the burden for the provision of Internet safety policy to the FCC.* The Internet safety policy requirement was proposed in a Notice of Proposed Rulemaking, FCC 09–96, CC Docket 02–6 (75 FR 2826, dated January 19, 2010 and approved by OMB on March 25, 2010). At this time of submission to the OMB, it is uncertain which proposed rule will be finalized to account for the Internet safety policy burden. Therefore, we have included it in this submission.

Specifically, the revised FCC Form 500 would require a school or library disposing of equipment to report the following information to USAC: (1) The applicant's name, entity number, address, and telephone number; (2) the name, address, telephone number, and e-mail address of the applicant's authorized point of contact; (3) the date of the disposal of obsolete equipment; (4) the name of each piece of equipment disposed of, including the date of purchase and the funding request number(s) associated with the disposed equipment; (5) any payment, trade-in value, or other consideration received for such disposal of equipment; (6) the name of the entity that paid or otherwise gave the applicant valuable consideration for the equipment; (7) formal declaration by the school board or other authorized body or individual that the equipment subject to disposal is surplus; and (8) certification that the information provided on the form is true and accurate to the best of the applicant's knowledge, evidenced by the signature of someone authorized to so certify by the applicant and the date.

Requiring schools and libraries to submit this information as part of the FCC Form 500 could facilitate our ongoing efforts to mitigate waste, fraud and abuse. Additionally, it would allow USAC and the Commission to better assess how long program participants are using equipment purchased with E-rate discounts prior to disposal of any obsolete equipment, and to track what E-rate program participants do with equipment they no longer use. Moreover, such revision would require limited information, all of which is easy to obtain whenever a school or library seeks to dispose of obsolete equipment.

I. Introduction

1. In sum, this NPRM seeks comment on a package of potential reforms to the E-rate program that could be implemented in funding year 2011 (July 1, 2011–June 30, 2012). These proposed reforms include:

- Streamlining the application and competitive bidding processes for telecommunications and Internet access in an effort to further reduce the administrative burden on applicants, while at the same time maintaining appropriate safeguards to mitigate potential waste, fraud, and abuse;
- Codifying the requirement developed in Commission precedent that competitive bidding processes be "fair and open" to enhance the Commission's ability to enforce its rules in cases involving waste, fraud and abuse;
- Simplifying the way schools calculate their discounts and conforming the E-rate definition of "rural" to the Department of Education's definition;
- Supporting 24/7 online learning by eliminating the current rule that requires schools to allocate the cost of wireless Internet access service between funded, in-school use and non-funded uses away from school premises;

- Providing greater flexibility to recipients to choose the most cost-effective bandwidth solutions for their connectivity needs by allowing the leasing of low-cost fiber from municipalities and other entities that are not telecommunications carriers;
- Expanding the reach of broadband in residential schools that serve populations facing unique challenges, such as Tribal schools or schools for children with physical, cognitive, or behavioral disabilities;
- Creating a new, predictable funding mechanism for internal connections so that more schools and libraries have the ability to use the most technologically advanced applications, including video streaming to the classroom, to provide superior learning opportunities;
- Indexing the current $2.25 billion cap on E-rate disbursements to inflation to maintain the purchasing power of the current program and enable continued support for high speed broadband and internal connections in the future; and
- Creating a process for schools and libraries to dispose of obsolete equipment without running afoul of the prohibition on reselling equipment and services purchased using E-rate funds.

II. Streamlining the Application Process

2. In this section, we discuss several proposals designed to improve and simplify the current E-rate application process. It is the intent that the adoption of these proposals will result in greater E-rate participation and will reduce the costs associated with administering the E-rate program. To the extent we can minimize the potential for inadvertent errors that do not fundamentally threaten program integrity, we should reduce the number of appeals of funding decisions that consume resources at both USAC and the Commission, resulting in faster decisions on funding and greater certainty for both applicants and service providers. About 15 percent of appeals to the Commission involve issues relating to alleged non-compliance with technology plan and competitive bidding requirements.

3. Specifically, we propose to eliminate technology plan requirements for priority one applicants that otherwise are subject to State and local technology planning requirements. We also propose to eliminate the FCC Form 470 posting and the 28-day waiting period before applicants can enter into contracts for those priority one applicants that are subject to public procurement requirements. We propose to retain our current technology planning and competitive bidding requirements for applicants seeking priority two services. In order to provide greater clarity regarding our competitive bidding requirements for priority one and priority two services, we propose to codify a rule requiring all applicants to conduct competitive bidding processes that are fair and open. We also seek comment on other proposals that streamline the application process. For instance, we propose to significantly streamline the FCC Form 470 and 471 online application process and require that those forms be completed and submitted electronically. We also propose to revise our discount rules so that schools will calculate discounts on supported services by using the average discount rate for the entire school district rather than the weighted average for each school building. Finally, we propose to adopt a new definition of "rural area" for the purpose of determining whether an E-rate applicant qualifies for the rural discount.

1. Technology Plans

4. We propose to amend § 54.508 of our rules to eliminate E-rate technology plan requirements for priority one applicants that otherwise are subject to State and local technology planning requirements. We seek comment on this proposal. The provision of priority one services (*i.e.,* telecommunications services and Internet access) is fairly straightforward for many applicants and, therefore, a technology plan for these services may represent an unnecessarily complex and burdensome program requirement. According to one commenter, the U.S. Department of Education and most, if not all, States already require technology planning, and therefore our requirement is largely duplicative.

5. We recognize, however, that the selection of the optimal package of telecommunications and Internet access solutions can be more complicated for larger school districts that typically have a greater array of competitive options for their broadband connectivity. We seek comment on whether a separate E-rate mandated technology plan requirement remains useful for larger telecommunications and Internet access service priority one funding requests, even for those applicants that are subject to other State or local requirements. For example, should we retain the E-rate technology plan requirement for applicants that request more than a specified amount of funding for priority one services, such as $1 million.

6. We propose to retain the FCC technology plan requirement for all priority two service requests and seek comment on this proposal. Priority two services and equipment are specifically tailored to the needs and requirements of the individual applicant. The FCC requirement for a detailed technology plan for internal connections therefore may continue to serve valuable purposes. They can help the school, school district, or library ensure that (i) it is requesting the appropriate amount of equipment necessary to satisfy network demands, (ii) it has taken into account any unique installation requirements, appropriate placement of facilities, and time demands, including possible disruption to the classroom or library services during installation, and (iii) it has considered and selected the most cost-effective implementation methods. We also seek comment on whether the current third-party approval process should be retained to the extent that we continue to require technology plans.

2. Competitive Bidding Process

7. *FCC Form 470.* We propose to simplify significantly the application process for priority one services, e.g., telecommunications services and Internet access services by adding § 54.510 to our rules. Specifically, we propose to eliminate the requirement that applicants for priority one services file an FCC Form 470 and wait 28 days before signing a contract with their selected service provider, as long as those applicants are subject to public procurement requirements. That is, for priority one services, an applicant that is subject to public procurement requirements would no longer be required to comply with § 54.504(b) of the Commission's rules. Instead, the applicant would initiate the application process for priority one services by filing an FCC Form 471. Applicants for priority one funding would still comply with their State and local procurement laws and processes when entering into E-rate eligible service contracts and with the Commission's requirement that the competitive bidding process be fair and open. We emphasize that compliance with local and State procurement requirements would remain a condition of receiving E-rate funding.

8. The elimination of the FCC Form 470 process and the 28-day waiting period for most priority one applicants could streamline the application process and make it easier for eligible institutions to receive support for essential priority one services such as telecommunications and Internet access services. The complexity of the FCC Form 470 and its associated deadlines, category selections, multi-year contract and contract extension requirements, in and of themselves, have been the basis

for a multitude of funding request denials by USAC. Eliminating these requirements for priority one services could reduce the number of unnecessary application funding denials and reduce the administrative burden on program participants and USAC during the application process. Fewer unnecessary reviews should also result in faster processing of applications for priority one services.

9. Eliminating the FCC Form 470 and 28-day waiting period for priority one applications should not jeopardize the integrity of the fund in those situations where State and local governments already have prescribed procurement regulations in place that public schools and libraries must follow before entering into a contract for goods or services. Purchasing thresholds also are set by State and local policymakers to ensure that bidding occurs for desired products and services and the most cost-effective bids are selected. In addition, public schools and libraries are held accountable by State and local authorities for violating State and local procurement regulations. Further, priority one services such as telecommunications and Internet access are more likely to be purchased as commodities based on volume and distance, as opposed to being priced by project. Commenters note there have been relatively few instances of alleged waste, fraud, or abuse associated with priority one requests. Eliminating these requirements could free up USAC program resources now spent applying these rules to priority one service applications, and allow more resources for reviewing other areas in which there is a greater chance of waste, fraud, and abuse. Nevertheless, we invite comment as to whether this proposed change would inadvertently increase instances of waste, fraud, and abuse.

10. We propose that priority one applicants not subject to State or local bidding requirements—for example, private schools or some charter schools—continue to be required to follow the current E-rate competitive bidding process by posting an FCC Form 470 and waiting 28 days to select a service provider. We believe that this would be less burdensome than requiring those applicants to learn and follow State or local procurement requirements that do not actually apply to them. We also propose that an applicant located in a State that does not have procurement rules in place would still need to follow the Commission's existing Form 470 process to satisfy the E-rate competitive bidding requirement. We seek comment on these proposals.

11. We propose to retain, for the present time, the Commission's existing competitive bidding requirements as set forth in § 54.504 of the Commission's rules for applications requesting support for priority two services. We can re-evaluate the need for these requirements after gaining practical experience from the outcome of the rule changes proposed here. Unlike most priority one services, priority two services are specifically tailored to the needs and requirements of the individual applicant. Configurations and prices can vary widely. In addition, on average, priority two requests generally involve greater amounts of money, per applicant, than priority one requests. We seek comment on these proposals.

12. *Fair and Open Competitive Bidding Rule.* The Commission previously has addressed specific situations in which the fairness of an applicant's competitive bidding process has been compromised because of improper conduct by the applicant, service provider, or both. Although the Commission has held in numerous orders that the competitive bidding process must be fair and open, there is currently no codified Commission rule specifically requiring that the competitive bidding process be conducted by an E-rate applicant in a fair and open manner.

13. We therefore propose to amend § 54.510 of our rules to codify the requirement that an applicant must conduct a fair and open bidding process when seeking bids for services eligible for E-rate support. This rule will apply to all applicants for both priority one and priority two services—including applicants not filing FCC Forms 470—and will apply in addition to State and local procurement requirements. In addition, all applicants for both priority one and priority two must still comply with the Commission's rule requiring the careful consideration of all bids submitted, the selection of the most cost-effective bid for services or equipment, with price as the primary factor considered, and the selection of the service that is the most cost-effective means of meeting educational needs and technology plan goals. Because we are proposing merely to codify an existing requirement, this should not increase the burden on E-rate applicants that are already following our competitive bidding rules. We propose to codify this requirement to emphasize that, even without a Commission-established competitive bidding process in some instances, the Commission still requires any and all competitive bidding processes in which E-rate applicants participate to be conducted in a fair and open manner. We seek comment on this proposal.

14. We are deeply concerned about practices that thwart Commission and other public competitive bidding policies and create conditions for waste of funds intended to promote access to telecommunications and information services. As the Commission has observed, competitive bidding is vital to limiting waste and assisting schools and libraries in receiving the best value for their limited funds. Codifying the requirement for a fair and open bidding process will assist in our continuing effort to ensure that the fund is being utilized by applicants as Congress intended, without waste, fraud, or abuse, by deterring program participants from engaging in any conduct that undermines the Commission's competitive bidding process as well as any State or local procurement processes. We do not believe that the Commission's fair and open process requirement will conflict with State and local procurement laws.

15. If we codify this rule, we propose to provide illustrative guidance of the types of conduct that would satisfy or violate the rule, which could be updated periodically based on experience gained through investigations involving waste, fraud and abuse. Generally speaking, all potential bidders and service providers should have access to the same information, they should be treated in the same manner throughout the procurement process, and they should not have additional information beyond the contents of an applicant's FCC Form 470 or RFP, if the applicant uses these documents to initiate bidding. While the lists set forth below are not exhaustive, we propose that the following behaviors constitute inappropriate conduct during the competitive bidding process. Moreover, we believe that any party with a potential financial interest in the E-rate program (for example, a subcontractor to a service provider) also could not engage in the prohibited activities described below:

- An applicant may not have a relationship with a service provider that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information;
- An applicant may not turn over its responsibility for ensuring a fair and open competitive bidding process to a service provider.
- Applicant employees or board members may not serve on any board of any type of telecommunications, Internet access, or internal connections service provider that participates in the E-rate program in the same State;

• Service providers may not offer or provide gifts, including meals, to employees or board members of the applicant;

• Applicant employees with any role in the selection of vendors may not have an ownership interest in a vendor that is seeking to provide products or services.

• Once a contract for products or services is signed by the applicant and service provider, a different service provider may not circumvent the bidding process and offer a new, lower price for the same products and services.

16. In addition, we seek comment on a proposal that applicants using the FCC Form 470 bidding process should also comply with the following requirements.

• An applicant using the FCC Form 470 bidding process must describe the desired products and services with sufficient specificity to enable interested parties to submit responsive bids;

• An applicant must identify the correct category of service on the FCC Form 470, *e.g.,* telecommunications, Internet access, or internal connections so that it can receive bidders for the services it seeks;

• Only an applicant or an authorized representative of the applicant can prepare, sign, and submit the FCC Form 470 and certification;

• An applicant cannot list a service provider representative as the FCC Form 470 contact person and allow that service provider to participate in the competitive bidding process;

• A service provider may not help an applicant prepare the FCC Form 470 or participate in the bid evaluation or vendor selection process in any way;

• A service provider may provide information to an applicant about products or services—including demonstrations—before the applicant posts the FCC Form 470, but not during the bid selection process.

17. We reiterate that these lists do not include every possible scenario in which we would find an applicant in violation of our competitive bidding rules. We seek comment on whether these proposed requirements and examples are appropriate and whether there are others we should specifically adopt as part of a codified rule to provide guidance to program participants.

3. Application Process Streamlining

18. We note that the Commission is currently seeking comment on significantly streamlined FCC Forms 470 and 471 for funding year 2011. Additionally, we are working with USAC in developing an improved online system that provides applicants with the tools and access to data necessary to participate more effectively and efficiently in the program. All forms should be available for online submission, and applicants should be able to upload requested information electronically. Applicants also should be able to save, retrieve, and edit previously filed applications and use these forms as the basis for future funding requests, thereby improving the efficiency of submission and processing of applications. We seek feedback from all interested parties on these planned user enhancements.

19. Because these forms and systems upgrades will dramatically improve the online experience for applicants, we propose to require all applicants to file their FCC Forms 470 and 471 electronically. We believe that the electronic submission of these forms will improve the efficiency of submitting and processing applications. It will also save administrative costs as USAC will not have to enter data into its electronic system from paper submissions, which will free up additional funding for supported services. Electronic completion and submission also would likely result in fewer errors on the form. We seek comment on this proposal.

4. Discount Matrix Streamlining

20. *Discount calculation.* We propose to revise our discount rules so that schools will calculate discounts on supported services by using the average discount rate for the entire school district rather than the weighted average for each school building. Currently, school districts, library systems, or other billed entities are required to calculate discounts for services that are shared by two or more of their schools, libraries, or consortia members by calculating an average based on the discounts of all member schools and libraries. School districts, library systems, or other billed entities are required to ensure that, for each year in which an eligible school or library is included for purposes of calculating the aggregate discount rate, that eligible school or library receives a proportionate share of the shared services for which support is sought. For schools, the average discount is the weighted average of the applicable discount of all schools sharing a portion of the shared services, with the weighting based on the number of students in each school. For libraries, the average discount is a simple average of the applicable discounts to which the libraries sharing a portion of the shared services are entitled.

21. We agree with E-rate Provider Services (EPS) that calculating discounts by individual school adds a significant level of complexity to the application process, as the discounts must be calculated separately by school and checked individually by USAC. Accordingly, we propose to revise § 54.505(b)(4) of our rules to require applicants to: (1) Calculate a single discount percentage rate for the entire school district by dividing the total number of students eligible for the National School Lunch Program by the total number of students in the district; and (2) then compare that single figure against the discount matrix to determine the school district's discount for priority one and priority two services. All schools and libraries within that school district would then receive the same discount rate. We seek comment on our proposal. We also seek comment on whether there should be a similar requirement for library systems and how this proposed rule would affect consortium applications.

22. This proposed discount percentage rate calculation could streamline the application process by simplifying the way in which schools compute their discount percentage rate and reduce the administrative burden on USAC by no longer requiring USAC to verify each individual school's discount percentage rate. Additionally, it could significantly reduce the amount of information necessary for block 4 of the FCC Form 471 application. This proposal could also eliminate applicants' submission of multiple FCC Form 471 applications at different discount levels. Moreover, it could reduce the incentive for districts to purchase priority two equipment at a 90 percent discount rate and transfer it after three years to a school with a lower discount rate. We also seek comment on other ways to accomplish these goals. We also seek comment on how to determine if a school district can receive the additional discount available for some applicants located in rural areas. Currently, the urban/rural designation is based on the physical address of each individual school or library. Some applicants have a mixture of urban and rural entities on the same application. Should these districts be considered urban? Should their urban/rural status depend on the number of entities within the district that fall within each category?

23. *Rural Definition.* We propose to adopt a new definition of "rural area" for the purpose of determining whether an E-rate applicant qualifies for the rural discount. A school's E-rate discount level is determined in part by whether

it is classified as urban or rural. In some discount bands, schools and libraries in rural areas receive 5 percent to 10 percent more in discounts than those schools and libraries in urban areas. We look at this proposed change with the recognition that the reason certain discounts are provided to schools and libraries located in rural areas is because those schools and libraries sometimes face significant challenges due to their remote location. As we seek comment on this proposed change in definition, it is not with the intent to reduce discounts to certain rural schools but rather to ensure that the funds are targeted appropriately.

24. In 1997, the Commission adopted for the E-rate program the definition of "rural area" used by the U.S. Department of Health and Human Service's Office of Rural Health Care Policy (ORHP). Under ORHP's definition, an area is rural if it is not located in a county within a Metropolitan Statistical Area (MSA) as defined by the Office of Management and Budget (OMB), or if it is specifically identified as "rural" in the Goldsmith Modification to Census data. In the 2003 *Schools and Libraries Third Report and Order,* the Commission sought comment on a new definition of "rural area." At that time, the Commission commented that a new definition was necessary because ORHP was no longer using the definition adopted by the Commission and had not updated the Goldsmith Modification to the 2000 Census data.

25. We now propose that, for E-rate purposes, an area will be considered rural based on the methodology and locale codes used by the U.S. Department of Education's National Center for Education Statistics (NCES), also known as urban-centric locale codes. We propose that any school or library that is within a territory that is classified as "town-distant," "town-remote," "rural-distant," or "rural-remote" by an NCES urban-centric locale code will be considered rural for purposes of calculating its E-rate discount level. We propose revising §§ 54.505(b)(3) and 54.5 of our rules to reflect this approach.

26. First, it is reasonable for the E-rate program, which benefits schools and libraries, to use the Department of Education's definition because it is specifically targeted to schools. By contrast, the current ORHP definition defines rural areas for rural health grant purposes only. Second, commenters have noted that the urban-centric locale codes pinpoint more precisely whether a school is located in a rural area. Rather than determining whether the school's county or census tract is located in a rural area under the ORHP definition, the urban-centric locale codes determine whether a particular address is rural based on its proximity to metropolitan areas and on population size and density. The locale codes can be more specific because they are based solely on settlement patterns and are not constrained by political or geographic boundaries such as census tracts. Third, one of the reasons proffered by the Commission for selecting its original definition of "rural area"—that it was less burdensome to schools and libraries and that the information was readily available to the public—applies to the new definition as well. In particular, it should be administratively straightforward for a school to discover its categorization, because the Department of Education's Web site has the coding system broken down by State, and the information is readily available. We seek comment on this proposal.

III. Providing Greater Flexibility To Select Broadband Services

27. We propose to support wireless Internet access service even when the portable device is used off school property, provide greater flexibility to use low-cost fiber for broadband connectivity, and expand access to broadband for students who live at their schools due to geographic challenges or in order to receive specialized instruction. Each of these proposals is described in further detail below. We also seek comment on additional ways in which the Commission can better allocate E-rate funding to support educational purposes more directly and to more effectively target our funding to broadband services.

1. Wireless Services Outside of School

28. We propose to adopt the National Broadband Plan recommendation to provide full E-rate support for wireless Internet access service used with a portable learning devices that are used off premises. We seek comment on this proposal. Currently, the E-rate program supports wireless Internet access on school grounds. If a device that provides wireless Internet access service, such as a laptop, is taken off school grounds, however, applicants are required to cost-allocate the dollar amount of support for the time that the device is not at school. If that same device is left at school all of the time, the program would pay 100 percent of the applicant's non-discount share. As such, our rules prevent students from fully utilizing learning opportunities that the devices can provide in the home.

29. Advances in technology have enabled students to continue to learn well after the school bell rings and from virtually anywhere. As noted in the NBP, "Online educational systems are rapidly taking learning outside the classroom, creating a potential situation where students with access to broadband at home will have an even greater advantage over those students who can only access these resources at their public schools and libraries." We propose to modify our rules so that we can lessen the digital divide between those who are fortunate enough to subscribe to broadband at home and those who do not.

30. Recent data demonstrates that the widespread availability of wireless laptop computing for students is linked to improved educational outcomes. For example, the Maine Learning and Technology Initiative (MLTI) provided a laptop to every seventh- and eighth-grade student in the State as part of its mission to transform teaching and learning in Maine's public schools. A study of the MLTI conducted by the Maine Education Policy Research Institute at the University of Southern Maine found that eighth-grade student writing, as measured by the Maine Educational Assessment (MEA), the State's standardized assessment, improved significantly after laptop implementation in middle schools. Laptop initiatives have been deployed at the regional and district level as well. In Henrico County in Richmond, Virginia, a three-year study released in 2008, revealed that 1-to-1 laptop use was associated with higher test scores in biology, history, chemistry, reading and Earth science. Both of these laptop programs have incorporated student connectivity to the Internet in home and school environments.

31. We emphasize that this proposal only relates to support for Internet access monthly service, and not the purchase of devices or equipment, such as mobile broadband cards, smartphones, or e-books. This proposal, therefore, would allow E-rate funding for Internet access services, which are already eligible, to be used to facilitate learning both on and off premises. It also would permit funding for connectivity that schools may increasingly utilize in the future to provide customized educational content to students.

32. We note that that the requirements of the Children's Internet Protection Act and the Protecting Children in the 21st Century Act still would apply to services being used off-premises. In addition, consistent with the Act, the Commission requires schools and libraries to certify, among other things, that services obtained through discounts

from the E-rate program will be used solely for educational purposes. We recognize that usage in the school or library typically occurs under the supervision of school or library personnel. We seek comment on what other safeguards, if any, we should consider imposing to mitigate against the risk of non-educational use at home that is not directly supervised by the recipient of funding.

33. We seek comment on whether recipients of funding should be required to have policies and procedures in place to mitigate the risk that E-rate funded wireless connectivity is not used for educational uses off-premises. For instance, should recipients be required to have policies relating to acceptable use off-premises? We seek comment on whether the residents of the households of students may use E-rate funded connectivity (so long as it is for educational purposes) because, for example, such use may be fundamental to promoting digital literacy skills for both the students and the other household members who support the child's educational experience, and whether such use is consistent with the educational purposes requirement of the statute. In our recent decision to permit schools to make E-rate funded connections available to the community, in order to reduce the likelihood of waste, fraud, and abuse, and to guard against potential additional costs being imposed on the E-rate program, we set forth certain conditions regarding other uses of school facilities that choose to allow the community to use their E-rate funded services. Among other things, the Commission required that: (1) Schools participating in the E-rate program not be permitted to request funding for more services than are necessary for educational purposes; and (2) consistent with the Act, a school's discounted services or network capacity may not be "sold, resold, or transferred by such user in consideration for money or any other thing of value." Should similar or other requirements be imposed if we expand support for wireless connectivity off-premises to guard against waste, fraud, and abuse?

34. We seek comment on whether providing E-rate funds for wireless Internet access to portable devices in offsite locations would result in increased demand for wireless connectivity in the E-rate program, and if so, how that would affect other requests for E-rate funding, given the overall annual funding cap. According to one 2008 survey, more than 27 percent of school districts were implementing in at least one grade or on pilot basis some form of one-on-one computing program with Internet connected wireless devices for use in the classroom and at home. We seek comment on how funding for wireless connectivity might increase over the next several years if we were to adopt this rule. If commenters believe that this rule change would limit the ability of eligible users to obtain other services, we seek comment on whether the Commission should limit wireless Internet access for mobile devices on a trial basis by, for example, capping the number of monthly service contracts per school district or some other method of allocating funding. We seek comment on whether we should implement this proposal on an interim basis for funding year 2011 and subsequently evaluate how to implement a permanent rule based on that experience.

2. Expanded Access to Low-Cost Fiber

35. We seek comment on permitting recipients to receive support for the lease of fiber, even if unlit, from third parties that are not telecommunications carriers, such as municipalities and other community or anchor institutions, to allow schools and libraries more flexibility to select the most cost-effective broadband solutions. Dark fiber was conditionally eligible for E-rate discounts prior to Funding Year 2004. In the *Schools and Libraries Third Report and Order,* released in 2003, however, the Commission found that, pending resolution of the regulatory status of dark fiber, it would not be eligible for E-rate discounts.

36. Fiber networks are used by both the public sector and governmental agencies for broadband Internet access today. A number of commenters in the record of the National Broadband Plan asserted that dark fiber may be a more cost-effective option for applicants—and therefore the program—in many instances. Several commenters expressed support for giving recipients more flexibility to use dark fiber as part of their broadband solutions. In order to provide greater flexibility to E-rate participants to reduce their overall cost of broadband and increase their bandwidth, we now propose to make leased dark fiber from any source eligible for funding as a priority one service.

37. We propose to add leased dark fiber to the ESL, pursuant to section 254(h)(2)(A) of the Act. We propose to add leased fiber with the same conditions as when it was on the ESL previously. That is, applicants would be able to lease fiber capacity that does not include modulating electronics, as long as they provide the electronics. In addition, the leased fiber must be used immediately. Under such an approach, applicants would, for instance, be able to lease dark fiber that may be owned by State, regional or local governmental entities, when that is the most cost-effective solution to their connectivity needs. We also seek comment on any other operational issues that may arise with the addition of leased fiber, such as dark fiber, to the ESL.

3. Expanding Access for Residential Schools That Serve Unique Populations

38. We seek comment on whether we should allow schools that serve unique populations to receive E-rate funding for priority one and priority two services delivered to residential areas. In the *Schools and Libraries Second Report and Order,* recognizing that the technology needs of participants in the E-rate program are complex and unique to each participant, the Commission clarified the scope of educational purposes. Specifically, the Commission defined educational purposes as "[A]ctivities that are integral, immediate, and proximate to the education of students, or in the case of libraries, integral, immediate, and proximate to the provision of library services to library patrons, qualify as "educational purposes." The Commission concluded that activities that occur on library or school property are presumed to be integral, immediate, and proximate to the education of students or the provision of library services to library patrons. The Commission thus concluded that in certain limited instances, the use of telecommunications services offsite would be considered integral, immediate, and proximate to the education of students or the provision of library services to library patrons, and thus, would be considered to be an educational purpose.

39. In the *Universal Service First Report and Order,* the Commission limited the eligibility of internal connections by limiting support for a service "only if it is necessary to transport information all the way to individual classrooms." The Commission subsequently elaborated on this policy in the *Universal Service Fourth Order on Reconsideration,* explaining that E-rate support is "not available for internal connections in non-instructional buildings used by a school district unless those internal connections are essential for the effective transport of information within instructional buildings." Consistent with these orders, funding for internal connections to dormitory rooms, study centers within dormitories, teachers' centers, and residential programs have

been found to be ineligible for support under the E-rate program.

40. We recognize, however, that this rule does not take into account the special circumstances of institutions that provide residential living arrangements to meet the unique challenges of certain student populations. We propose to revise our rules to allow schools with residential areas on their grounds to receive E-rate funding for priority one and priority two services in those residential areas in circumstances where the students do not have access to comparable schooling or training if they were to reside at home. Specifically, we seek comment on whether the use of priority one and priority two services at a dormitory on a school campus could be considered integral, immediate, and proximate to the education of students, and thus, considered to be used for educational purposes, when the school is serving students with medical needs, cognitive, or behavioral disabilities, or who have no option but to live at school due to challenging terrain or their home's distance from a school. For example, in West Virginia, students at the West Virginia School for the Deaf and Blind reside in dormitories on the same campus as the school, away from their parents, to receive schooling. These students are unable to go home or to a public library to access the Internet after school hours. The West Virginia School for the Deaf and Blind, however, pursuant to our rules, is unable to receive funding for services provided to these residential facilities, thus, requiring the school to cost-allocate between the eligible and ineligible uses of its services on the school's campus. Currently, our rules state that service is eligible for support as a component of the institution's internal connections only if it is necessary to transport information all the way to individual classrooms. We invite comment on whether we should amend our eligibility limitation imposed on internal connections, and if so, how we should amend that limitation with regard to schools described above. In addition, should we require that support for services to dormitories be limited to only to those schools whose operating expenses are funded, in whole or in part, with State or Federal funds? We seek comment on any other possible conditions or limitations to extending support to schools for services provided to dormitories located on a school's campus to target finite funding to those schools for which funding may be truly necessary to access advanced telecommunications and information services and to minimize the potential for waste, fraud, and abuse.

4. Targeting Support for Broadband Services

41. Finally, we seek comment on other ways to reallocate funding so that finite amounts of E-rate dollars can be better targeted to satisfy the educational needs of students and library patrons. We recognize that schools and libraries face significant challenges in obtaining higher bandwidth necessary to support emerging needs at a time when budgets are stagnant or declining. According to one report, more than half of school districts surveyed faced problems in obtaining funding for higher bandwidth services, and two-thirds of those surveyed reported conserving bandwidth by restricting certain online applications such as streaming video. At the same time, more advanced applications such as media streaming and video conferencing, distance or online learning, multimedia applications that make learning more engaging and relevant, and one-to-one programs that enable students to engage in continuous learning hold great promise for educating the next generation. We therefore seek comment on specific proposals to re-prioritize E-rate funding to support higher bandwidth connectivity that will enable such applications to be delivered to students and libraries across the country.

42. In the short-term, the demand for wireless services and increased bandwidth for broadband will likely increase. We seek comment on whether there are specific telecommunications services, Internet access services, or priority two services on the current ESL that should receive a lower priority in E-rate funding so that we can target funding toward higher bandwidth connectivity. For example, should dial-up Internet access continue to be funded as a priority one service or instead, should greater priority be given to applicants seeking support for broadband services? Similarly, should we give a higher priority to advanced telecommunications and broadband services, rather than voice telecommunications services? We recognize that budgets are challenged for State and local authorities around the country, but also emphasize that our objective in managing this finite program is to achieve the maximum benefits of access to the full range of content and applications that the Internet can deliver, not to fund voice telephone service that schools and libraries across the country were paying for in full before the inception of the E-rate program. We seek comment on these and any other proposals commenters might suggest to meet the goal of generating the most return for each E-rate dollar.

IV. Expanding the Reach of Broadband to the Classroom

43. Internal connections, such as routers or hubs, are essential to the effective use of broadband within schools and libraries because they enable students and library patrons to utilize higher bandwidth applications in multiple locations within a school or library. As schools and libraries are increasingly utilizing higher bandwidth services to meet educational and community needs, they need to upgrade and replace their existing internal connections as well in order to fully utilize the broadband services they are purchasing. Without upgraded Internet access and the internal connections necessary to bring the connection all the way to the classroom or library patron, many users simply will be unable to utilize the many applications available in today's marketplace, such as high-definition video streaming, that support online learning. Demand for priority one services has grown from $800 million in 1998 to approximately $2 billion in 2009. As noted above, only schools and libraries with the highest discount levels are receiving priority two subsidies, and the availability of priority two funding gets smaller as applicants apply for more funding for priority one services. The net result is the E-rate program is funding high-capacity pipes to a single point of entry at the school (or library) but not providing any support for the equipment that enables the computer terminals or laptops across the school or library to access that high-capacity pipe. Further, without changes to the way in which we allocate funding for internal connections, it is quite possible that in funding year 2011, E-rate support for telecommunications services and Internet access could eliminate the availability of any funding for internal connections.

44. In this NPRM, we seek comment on how to ensure that schools and libraries receive funding for internal connections (priority two services). We have two important goals in mind: (1) Providing funding for internal connections to more schools and libraries than in the past; and (2) ensuring a predictable amount of funding available to schools and libraries for internal connections each year.

1. Predictable Internal Connections Funding for More Schools and Libraries

45. One option would be to allocate funding for internal connections based on a per student cap per school district, to which the applicant's discount rate would be applied. Under this option, libraries would be eligible to receive the same amount of funding as the public school districts within which they are located. To ensure that a predictable amount of funding is available for internal connections, we could set aside a defined amount of funding before funding is allocated to telecommunications and Internet access, current priority one services. If we choose this option, we also could eliminate the 2-in-5 rule. Another option would be to eliminate support for basic maintenance for internal connections, or, in the alternative, to cap the amount available for basic maintenance. We seek comment on whether and, if so, how we could phase in any of these proposals on a trial basis to examine the distributional impacts of such rule changes. In what funding year should any of these options be implemented? Commenters should provide specific proposals on the timing and staging of specific reforms. We further describe these options below and seek comment.

46. We believe that these options for reforming how we fund internal connections could have several advantages over our current rules. First, the current discount matrix and rules of priority have the effect of providing funding to a limited number of school districts that have the very highest percentage of students eligible for free or reduced price school lunch, while providing nothing to other districts that are significantly impoverished. Second, many stakeholders have expressed a desire for a more predictable funding mechanism whereby schools and libraries would know on a yearly basis how much funding they will receive for internal connections. This predictability is essential so that schools and libraries can better plan for their future technological needs. If, for instance, a certain amount of total funding would be designated for internal connections, USAC would be able to issue funding commitment decision letters earlier for priority two projects, enabling schools and libraries to begin projects more quickly.

47. *Capped Amount.* To create a more predictable funding mechanism for priority two services, we seek comment on establishing a flat per student cap per school district for each funding year, with the applicant's discount rate applied after the cap is determined. For example, if the cap were set at $15 per student, a school district that has 100,000 students would have a cap of $1.5 million in internal connections funding. If the district were eligible for an 75 percent discount (that is, a school with 50 percent to 74 percent of its students eligible for free or reduced price lunch), it would be eligible to receive up to $1.125 million for internal connections each year. If that same school district was eligible for a 30 percent discount (that is, a school with 20 percent to 34 percent of its students eligible for free or reduced price lunch), it could receive up to $450,000. Under this option, libraries would receive the same discount as the public school districts in which they are located. We seek comment on this option and any alternatives that would increase predictability of priority two funding while meeting the goal of ensuring internal connections funding to more schools and libraries.

48. We also seek comment on whether there should be a minimum amount for which a school, library, or school district is eligible, not tied to the number of students. For instance, should we establish a baseline amount of support that would be provided to an eligible facility, and then a variable amount of support depending on the number of students? If a minimum amount is established, what should it be? We note that smaller applicants might receive less funding because of their smaller number of students; however, some types of equipment are not necessarily usage-sensitive. Should there be additional funding provided to rural applicants, either by establishing a higher dollar amount for rural applicants or a higher discount level?

49. We recognize that schools and libraries at the highest discount levels could receive significantly less funding if we were to establish a capped amount than they receive under the current rules. However, in the near future, as demand for priority one services grows, it is likely that, absent changes to the current funding structure, there will be no funding available for internal connections for even the highest-discount applicants. In addition, those same schools and libraries may be able to realize savings on their purchase of priority one services if they have greater freedom to use lower-cost fiber, as proposed above, which could free up additional money in their budget to pay for internal connections. And in any event, we are concerned that the same few schools continue to receive all of the available funding, year after year, while many schools that have nearly as many students in poverty receive no funding for internal connections.

50. *Set Aside for Internal Connections.* We seek comment on revising § 54.507 of our rules to set aside a defined amount of funding from the $2.25 billion fund for internal connections before priority one funding is allocated. We seek comment on an appropriate amount to set aside for internal connections. For instance, would $500 million be an appropriate amount to set aside for internal connections? Depending on the amount set aside, it is possible that all of the requests for priority one would not be funded. If so, our rules of priority would operate to fund requests from the highest-discount schools first, and it is possible that recipients with the lowest discounts (namely, schools that serve very few students eligible for free or reduced price school lunch) would no longer receive any funding from the E-rate program. We seek comment on whether we should change our rules of priority to effectuate an alternative result.

51. *Threshold for Priority Two Funding.* We seek comment on the appropriate threshold for any revised methodology for internal connections funding. Today, the money effectively is channeled to school districts that have 75 percent or more students eligible for free or reduced-price school lunch. We seek comment on how to focus funding on improving internal connections to a broader group of needy schools, school districts, and libraries. For instance, should we adopt rule changes that would enable school districts where 35 percent or 50 percent of students are eligible for NSLP to obtain predictable funding for internal connections. We encourage parties to submit factual analyses of the distributional impact of alternative thresholds into the record.

52. *Revised Discount Matrix.* Many commenters have suggested that the Commission should revise the priority two discount matrix to enable more school districts to obtain funding for internal connections. SECA and other commenters argue that altering the discount rate is an effective way to increase the availability of priority two funds and more evenly distribute priority funds to a greater number of entities. Additionally, we note that other governmental programs that award funding for similar purposes require recipients to pay 15 or 20 percent of the total cost. An approach that strengthens incentives for applicants to find the most cost-effective services to meet their needs is an important tool to maximize the public benefits of a finite amount of governmental funding, and could

further our efforts to curb waste, fraud, and abuse by applicants and service providers. We seek comment on a revised discount matrix for internal connections and ask whether we should adjust the current level of additional discount provided to rural schools and libraries. Commenters should set forth with specificity an alternative proposed discount matrix.

53. *Eliminate the 2-in-5 Rule.* We seek comment, in conjunction with the options detailed above, on eliminating § 54.506(c), the 2-in-5 rule, which limits an eligible entity's receipt of discounts on internal connections to twice every five funding years. In the *Schools and Libraries Third Report and Order,* the Commission sought to make funds for internal connections available to more eligible schools and libraries on a regular basis by limiting the frequency with which applicants may receive priority two discounts. Further, the Commission concluded that, by precluding a particular entity from receiving support for priority two discounts every year, the rule would strengthen incentives for applicants not to waste program resources by replacing or upgrading equipment on an annual basis but rather to fully use equipment purchased with universal service funds.

54. However, the 2-in-5 rule has not served its intended purposes. Today, funding for maintenance represents roughly 15 percent of all priority two funding, with the very largest school districts receiving most of that funding. The rule has not increased the availability of priority two funding to more eligible schools and libraries on a regular basis. In addition, because the availability of funding is dependent, in part, on the amount of funding sought by higher-discount eligible entities, the 2-in-5 rule actually has increased the unpredictability of priority two funding. Additionally, commenters argue that, instead of increasing the incentive for applicants to not waste program resources, the rule has encouraged schools to undertake large projects that might not be necessary and discriminates against schools that undertake smaller, more long-term projects. We seek comment on any potential implications the elimination of the 2-in-5 rule may have upon current recipients of funding for maintenance and how to address such implications.

55. *Application by School District.* We seek comment on requiring schools and libraries to submit applications for internal connections by school district, not by individual school. Schools that operate independently from a school district, however, such as private schools and some charter schools, should still apply for discounts individually. We propose, therefore, that any school that is part of an organized school district must apply as part of that district, with libraries receiving the same discount as the public school districts in which they are located. Requiring schools to apply by school district could help streamline the process and will simplify the discount calculation for schools. Additionally, it would ensure that libraries receive funding for internal connections and at the same discount level as schools located within their school district.

56. *Eliminate Funding for Basic Maintenance for Internal Connections.* We seek comment on options for modifying the funding of basic maintenance of internal connections. Currently, the ESL lists basic maintenance as a supported priority two service. In the *Universal Service First Report and Order,* the Commission determined that support for internal connections includes "basic maintenance services" that are "necessary to the operation of the internal connections network." Subsequently, in the *Schools and Libraries Third Report and Order,* the Commission provided further detail on which maintenance services are "necessary" under the terms of the *Universal Service First Report and Order.* The Commission found that basic maintenance services are eligible for universal service support as an internal connections service if, but for the maintenance at issue, the internal connection would not function and serve its intended purpose with the degree of reliability ordinarily provided in the marketplace to entities receiving such services. At that time, the Commission sought to identify maintenance as a separate category for priority two funding in part to provide greater transparency regarding the use of internal connections funding. It appears, however, some recipients of funding for maintenance may be using such funding to pay for ongoing information technology support functions, which siphons funding away from other critical uses.

57. One option would be to eliminate E-rate funding for basic maintenance of internal connections. We seek comment on whether funding of basic maintenance for internal connections should remain on the ESL. First, given that funding for the E-rate program is finite and there is a consistent level of unmet demand, we have concerns that our current rules inadvertently result in basic maintenance effectively taking precedence over funding the internal connections that are necessary to deliver higher bandwidth applications like high definition video streaming to schools and libraries. We believe it may be preferable to spread funding more broadly across needy schools and libraries for internal connections than to provide funding for maintenance of networks for a limited number of school districts. Second, it may be the case that funding for basic maintenance is used to pay for "warranties" on equipment or to support significant information technology departments. Given the limited funding available for internal connections, we question whether the E-rate should be supporting ongoing tech support to address potential problems when there is such unmet demand for actual equipment that will enable services *definitely* to be used. We recognize that maintenance in some form is important for services to be available, but are concerned that our current rules fail to impose appropriate limitations. Third, under our current allocation method, the same schools and school districts receive large amounts of funding year after year for basic maintenance, while others receive nothing. In order to achieve our inclusion objectives, the limited funding available could be better utilized to pay for facilities for schools and libraries serving high poverty populations that have never received funding for internal connections. At least until priority two funding has been distributed more broadly, we ask whether the funding should be used to support initial installation of internal connections rather than pay for maintenance for entities that have already had their internal connections funded through the E-rate program. Finally, eliminating funding for basic maintenance could provide additional incentives for schools and libraries to evaluate carefully the reliability of different solutions from various providers and think seriously about maintenance costs when constructing their internal networks.

58. Another option would be to cap basic maintenance payments and reimburse requests that are based on actual repair and maintenance costs only. Specifically, consistent with the internal connections approach, we seek comment on establishing a per student cap per school district for each funding year, with the applicant's discount rate applied after the cap is determined. For example, if the per student cap were $2, a school district with 100,000 students would have a total of up to $200,000 in E-rate funding for basic maintenance for internal connections. If the district were eligible for a 75 percent discount, it

could be eligible to receive up to $150,000 for maintenance each year. Under this option, libraries would be eligible for up to the same discount as the public school district in which they are located. We believe that this approach would help to ensure that funding for basic maintenance for internal connections is allocated more equitably among the schools and libraries that most need funding support for maintenance. To address the potential waste that occurs by funding maintenance based on estimated costs, we also propose to limit funding for maintenance to actual expenses for repair and maintenance. In order to make this change, we propose to change E-rate program rules to allow applicants to seek E-rate funds for basic maintenance for internal connections in the funding year following the funding year in which they sought and received repairs on internal connections. We seek comment, therefore, on revising § 54.507(d) of the Commission's rules to allow applicants to request funding for basic maintenance that was received in the prior funding year.

59. For either option (eliminating funding for basic maintenance of internal connections or capping such funding), we seek comment on whether such a change should be phased in over some number of funding years, and, if so, how. In either case, the requirement that applicants seek funding for only basic maintenance would remain unchanged. Specifically, we would continue to find ineligible any services that include maintenance of equipment that is not supported by E-rate or that enhances the utility of equipment beyond the transport of information, as well as diagnostic services in excess of those necessary to maintain the equipment's ability to transport information. Additionally, we seek comment on any other methods we could use to ensure support for basic maintenance is distributed equitably and in a way that is based on actual repair costs. For example, one alternative method could be that funding for basic maintenance could be distributed in the next funding year after the costs were incurred based on the actual amount for labor and parts or equipment.

2. Indexing the Annual Funding Cap to Inflation

60. We propose to amend § 54.507 of our rules to index the E-rate program funding cap to the rate of inflation, on a prospective basis, so that the program maintains its current purchasing power in 2010 dollars. Many commenters responding to the *NBP Public Notice #15* support adjusting the annual E-rate funding cap to take into account inflation, suggesting that increasing the cap will allow schools and libraries to continue to benefit from upgraded connections that deliver faster and more efficient broadband service as demand for greater capacity increases. In order to maintain predictability, however, we propose that during periods of deflation, the funding cap will remain at the level from the previous funding year. We seek comment on these proposals.

61. We propose using the gross domestic product chain-type price index (GDP–CPI), which is released quarterly. This is the same index used by the Commission to inflation-adjust revenue thresholds used for classifying carrier categories for various accounting and reporting purposes. It also is used to calculate adjustments to the annual funding cap for the high cost loop support mechanism, which subsidizes service provided by rural telephone companies. The Commission has noted that the Bureau of Economic Analysis of the Department of Commerce, which produces the index, considers the GDP–CPI a more accurate measure of price changes than other indices for the Commission's purposes. The GDP–CPI is used by the Commission since it reflects price changes in all sectors of the economy. While inflation is currently very low, implementation of such a proposal could result in the E-rate cap growing from $2.25 billion to approximately $2.55 billion over the next five years if inflation were to occur similar to the historical rate for the last five years. We seek comment on this proposal and on whether there are better ways to index the E-rate funding cap to inflation.

V. Creating a Process for Disposal of Obsolete Equipment

62. We propose to amend § 54.513 of our rules establishing how participants in the E-rate program may dispose of obsolete equipment purchased with E-rate discounts. We also propose revising an FCC form to report such equipment disposals to USAC. The changes we propose seek to balance the competing concerns of providing schools and libraries the flexibility to dispose of obsolete equipment and the need to guard against waste, fraud, and abuse within the E-rate program. We seek comment on our proposed changes provided below.

63. *Process for Disposal of Obsolete Equipment.* We seek comment on permitting the disposal of E-rate equipment for payment or other consideration, subject to four of E-Rate Central's proposed five principles. We propose to revise § 54.513 of our rules to provide for the disposal of equipment for payment or other consideration where such equipment has exhausted its useful life. We clarify that, to the extent a school or library chooses to dispose of equipment purchased using E-rate funds and does not receive monetary payment or other consideration, it may do so without complying with these proposed rules. As BellSouth suggests, the Commission encourages schools and libraries to recycle the equipment when feasible. We do not believe, however, that it is necessary to adopt a requirement that applicants return any non-*de minimis* value, as discussed below. Specifically, we believe that the Act's prohibition on the sale, resale, or transfer of telecommunications services and network capacity was intended to prevent applicants from profiting from supported services during the time that the applicant is supposed to be using them. We do not believe this prohibition extends to when the applicant is no longer utilizing equipment purchased with the assistance of E-rate funds because the equipment is past its useful life. Thus, we propose to allow schools and libraries to dispose of equipment for payment or other consideration under the following conditions: (1) The equipment has exhausted its useful life but no sooner than five years after the equipment is installed; (2) the equipment is formally declared to be surplus by the school board, information technology officer, or other authorized body or individual; (3) the school or library notifies USAC within 90 days of disposal and keeps a record of the disposal for a period of five years following the disposal; and (4) the disposal process fully complies with State and local laws, where applicable. We discuss these conditions separately below.

64. First, we propose that schools and libraries be permitted to sell or trade in equipment after the equipment has exhausted its useful life. We agree with commenters that there should be a rebuttable presumption of no less than five years from the installation date for the useful life of any equipment purchased using E-rate funds. Commenters note that the absence of rules specifically addressing the disposal of equipment purchased under the E-rate program when it has reached the end of its useful life has led some schools and libraries to place obsolete, out-of-service equipment in school basements or other on-campus storage locations. Such indefinite storage imposes additional needless costs on schools and libraries. Additionally, our

silence may have encouraged some schools or libraries to simply throw away unused equipment, even though that same equipment could be put to use by others. We seek comment on permitting the disposal of E-rate equipment for payment or other consideration, subject to certain conditions. Specifically, we seek comment on whether five years is a reasonable minimum time period for retaining equipment components purchased using an E-rate discount. Further, this proposal would count five years from the date of installation. We seek comment on whether that is the appropriate date from which to count five years or whether some other date, such as purchase date, is more appropriate. We note that our proposal would not require schools and libraries to continue using the equipment for five years, but they could not resell or trade it in before five years had passed.

65. Second, we seek comment on the proposal suggested by commenters to require applicants to formally declare that the equipment is surplus. We propose to require that the school board or other authorized body make the formal declaration. We note that E-rate Central proposed that an internal auditor may make the formal declaration. While we do not believe that is typically the function of an internal auditor, we do not preclude schools or libraries from having such a person make the declaration at their discretion. We believe this formal process will prevent applicants from disposing of equipment prematurely. We also propose that the formal declaration be subject to the Commission's document retention rules, as detailed in § 54.516.

66. Third, we propose that schools and libraries notify USAC of the resale or trade of equipment funded via the E-rate program within 90 days of its disposal. We also propose that applicants be required to keep a record of the disposal for a period of five years following the disposal. To implement this requirement, we propose to revise the FCC Form 500 (Adjustment to Funding Commitment and Modification to Receipt of Service Confirmation), as discussed below, to require applicants to submit certain information to USAC documenting the resale or trade of their equipment. We seek comment on these proposals.

67. In setting forth these proposed conditions, we do not propose to require the return of any funds that are related to the resale or trade of E-rate equipment. Thus, we do not propose the adoption of E-Rate Central's suggestion that program participants must refund any non-*de minimis* consideration received due to the disposal of any obsolete equipment to the E-rate program. The value of equipment after five years of purchase in all likelihood would be so small that it would not justify requiring schools to return a portion of the proceeds to USAC. As SECA notes, the administrative and financial burden on USAC and applicants of documenting and processing any such refunds would far outweigh the value of the funds being returned since such refunds would be minimal. Further, requiring applicants to return any funds related to the disposal of E-rate equipment could deter them from disposing unneeded equipment. We seek comment on these proposals.

68. *Revised FCC Form 500.* Currently, to help the Commission track the use of equipment components purchased with E-rate discounts, schools and libraries are required to "maintain asset and inventory records of equipment purchased as components of supported internal connections services sufficient to verify the actual location of such equipment for a period of five years after purchase." Similarly, if a school or library closes and transfers services or equipment components thereof to another school or library, the transferor "must notify [USAC] of the transfer, and both the transferor and recipient must maintain detailed records documenting the transfer and the reason for the transfer for a period of five years." Consistent with the Commission's recordkeeping and reporting requirements, we propose to revise the FCC Form 500 to require schools and libraries to report to USAC the disposal of equipment purchased with an E-rate discount for payment or other consideration. Specifically, the revised FCC Form 500 would require a school or library disposing of equipment to report the following information to USAC:

(A) The applicant's name, entity number, address, and telephone number;

(B) The name, address, telephone number, and e-mail address of the applicant's authorized point of contact;

(C) The date of the disposal of obsolete equipment;

(D) The name of each piece of equipment disposed of, including the date of purchase and the funding request number(s) associated with the disposed equipment;

(E) Any payment, trade-in value, or other consideration received for such disposal of equipment;

(F) The name of the entity that paid or otherwise gave the applicant valuable consideration for the equipment;

(G) Formal declaration by the school board or other authorized body or individual that the equipment subject to disposal is surplus; and

(H) Certification that the information provided on the form is true and accurate to the best of the applicant's knowledge, evidenced by the signature of someone authorized to so certify by the applicant and the date.

69. Requiring schools and libraries to submit this information as part of the FCC Form 500 could facilitate our ongoing efforts to mitigate waste, fraud and abuse. Collecting this information would allow USAC and the Commission to better assess how long program participants are using equipment purchased with E-rate discounts prior to disposal of any obsolete equipment, and to track what E-rate program participants do with equipment they no longer use. Moreover, such revision would require limited information, all of which is easy to obtain whenever a school or library seeks to dispose of obsolete equipment. We seek comment on revising the FCC Form 500 and ways in which to further minimize any potential burdens on applicants while guarding against waste, fraud, and abuse in the E-rate program. We also seek comment on the information that we propose to obtain from applicants and whether less or more information would be appropriate.

VI. Procedural Matters

A. Initial Regulatory Flexibility Analysis

70. As required by the Regulatory Flexibility Act ("RFA"), *see* 5 U.S.C. 603, the Commission prepared this Initial Regulatory Flexibility Analysis ("IRFA") of the possible significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rulemaking (NPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed on or before the dates indicated on the first page of this NPRM. The Commission will send a copy of the NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for, and Objectives of, the Proposed Rules

71. The Commission is required by section 254 of the Communications Act of 1934, as amended, to promulgate

rules to implement the universal service provisions of section 254. On May 8, 1997, the Commission adopted rules to reform its system of universal service support mechanisms so that universal service is preserved and advanced as markets move toward competition. Specifically, under the schools and libraries universal service support mechanism, also known as the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may receive discounts for eligible telecommunications services, Internet access, and internal connections.

72. This NPRM is one in a series of rulemaking proceedings designed to implement the National Broadband Plan's (NBP) vision of improving and modernizing the universal service programs. The Joint Statement on Broadband, released with the National Broadband Plan, identifies comprehensive universal service fund (USF) reform as an essential goal for the Federal Communications Commission (Commission). In meeting the objectives set forth in these documents, this NPRM seeks comment on reforms to focus spending on more productive uses that will better serve the current educational needs of schools and libraries, while maintaining the overall size of the E-rate program in relation to the rate of inflation. This NPRM also seeks comment on potential reforms that would eliminate rules that have not effectively served their intended purpose, while continuing to protect against waste, fraud, and abuse.

2. Legal Basis

73. The legal basis for the NPRM is contained in sections 1 through 4, 201–205, 254, 303(r), and 403 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. 151 through 154, 201 through 205, 254, 303(r), and 403.

3. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

74. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Nationwide, there are a total of approximately 29.6 million small businesses, according to the SBA. A "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 2002, there were approximately 1.6 million small organizations. The term "small governmental jurisdiction" is defined generally as "governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. We estimate that, of this total, 84,377 entities were "small governmental jurisdictions." Thus, we estimate that most governmental jurisdictions are small.

75. Small entities potentially affected by the proposals herein include eligible schools and libraries and the eligible service providers offering them discounted services, including telecommunications service providers, Internet Service Providers (ISPs), and vendors of the services and equipment used for internal connections.

a. Schools

76. As noted, "small entity" includes non-profit and small governmental entities. Under the schools and libraries universal service support mechanism, which provides support for elementary and secondary schools, an elementary school is generally "a non-profit institutional day or residential school that provides elementary education, as determined under State law." A secondary school is generally defined as "a non-profit institutional day or residential school that provides secondary education, as determined under State law," and not offering education beyond grade 12. For-profit schools, and schools and libraries with endowments in excess of $50,000,000, are not eligible to receive discounts under the program. Certain other restrictive definitions apply as well. The SBA has also defined for-profit, elementary and secondary schools having $7 million or less in annual receipts as small entities. In funding year 2007, approximately 105,500 schools received funding under the schools and libraries universal service mechanism. Although we are unable to estimate with precision the number of these additional entities that would qualify as small entities under SBA's size standard, we estimate that fewer than 105,500 such schools might be affected annually by our action, under current operation of the program.

b. Telecommunications Service Providers

77. *Incumbent Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small incumbent local exchange services. The closest size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,311 incumbent carriers reported that they were engaged in the provision of local exchange services. Of these 1,311 carriers, an estimated 1,024 have 1,500 or fewer employees and 287 have more than 1,500 employees. Thus, under this category and associated small business size standard, we estimate that the majority of entities are small.

78. We have included small incumbent local exchange carriers in this RFA analysis. A "small business" under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not "national" in scope. We have therefore included small incumbent carriers in this RFA analysis, although we emphasize that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts.

79. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for wired telecommunications carriers. This provides that a wired telecommunications carrier is a small entity if it employs no more than 1,500 employees. According to the Commission's *2008 Trends Report,* 300 companies reported that they were engaged in the provision of interexchange services. Of these 300 IXCs, an estimated 268 have 1,500 or fewer employees and 32 have more than 1,500 employees. Consequently, the Commission estimates that most providers of interexchange services are small businesses.

80. *Competitive Access Providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive access services providers (CAPs). The closest applicable definition under the SBA rules is for wired telecommunications carriers. This provides that a wired telecommunications carrier is a small entity if it employs no more than 1,500 employees. According to the *2008 Trends Report,* 1,005 CAPs and competitive local exchange carriers (competitive LECs) reported that they were engaged in the provision of competitive local exchange services. Of these 1,005 CAPs and competitive LECs, an estimated 918 have 1,500 or fewer employees and 87 have more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive exchange services are small businesses.

81. *Wireless Telecommunications Carriers (except Satellite).* Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category. Prior to that time, such firms were within the now-superseded categories of "Paging" and "Cellular and Other Wireless Telecommunications." Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. Because Census Bureau data are not yet available for the new category, we will estimate small business prevalence using the prior categories and associated data. For the category of Paging, data for 2002 show that there were 807 firms that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. For the category of Cellular and Other Wireless Telecommunications, data for 2002 show that there were 1,397 firms that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, we estimate that the majority of wireless firms are small.

82. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to the *2008 Trends Report,* 434 carriers reported that they were engaged in wireless telephony. Of these, an estimated 222 have 1,500 or fewer employees and 212 have more than 1,500 employees. We have estimated that 222 of these are small under the SBA small business size standard.

83. *Common Carrier Paging.* As noted, since 2007 the Census Bureau has placed paging providers within the broad economic census category of Wireless Telecommunications Carriers (except Satellite). Prior to that time, such firms were within the now-superseded category of "Paging." Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. Because Census Bureau data are not yet available for the new category, we will estimate small business prevalence using the prior category and associated data. The data for 2002 show that there were 807 firms that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. Thus, we estimate that the majority of paging firms are small.

84. In addition, in the *Paging Second Report and Order,* the Commission adopted a size standard for "small businesses" for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A small business is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. The SBA has approved this definition. An initial auction of Metropolitan Economic Area ("MEA") licenses was conducted in the year 2000. Of the 2,499 licenses auctioned, 985 were sold. Fifty-seven companies claiming small business status won 440 licenses. A subsequent auction of MEA and Economic Area ("EA") licenses was held in the year 2001. Of the 15,514 licenses auctioned, 5,323 were sold. One hundred thirty-two companies claiming small business status purchased 3,724 licenses. A third auction, consisting of 8,874 licenses in each of 175 EAs and 1,328 licenses in all but three of the 51 MEAs, was held in 2003. Seventy-seven bidders claiming small or very small business status won 2,093 licenses.

85. Currently, there are approximately 74,000 Common Carrier Paging licenses. According to the most recent *Trends in Telephone Service,* 281 carriers reported that they were engaged in the provision of "paging and messaging" services. Of these, an estimated 279 have 1,500 or fewer employees and two have more than 1,500 employees. We estimate that the majority of common carrier paging providers would qualify as small entities under the SBA definition.

c. Internet Service Providers

86. The 2007 Economic Census places these firms, whose services might include voice over Internet protocol (VoIP), in either of two categories, depending on whether the service is provided over the provider's own telecommunications facilities (*e.g.,* cable and DSL ISPs), or over client-supplied telecommunications connections (*e.g.,* dial-up ISPs). The former are within the category of Wired Telecommunications Carriers, which has an SBA small business size standard of 1,500 or fewer employees. The latter are within the category of All Other Telecommunications, which has a size standard of annual receipts of $25 million or less. The most current Census Bureau data for all such firms, however, are the 2002 data for the previous census category called Internet Service Providers. That category had a small business size standard of $21 million or less in annual receipts, which was revised in late 2005 to $23 million. The 2002 data show that there were 2,529 such firms that operated for the entire year. Of those, 2,437 firms had annual receipts of under $10 million, and an additional 47 firms had receipts of between $10 million and $24,999,999. Consequently, we estimate that the majority of ISP firms are small entities.

d. Vendors of Internal Connections

87. *Telephone Apparatus Manufacturing.* The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged in manufacturing wire telephone and data communications equipment. These products may be standalone or board-level components of a larger system. Examples of products made by these establishments are central office switching equipment, cordless telephones (except cellular), PBX equipment, telephones, telephone answering machines, LAN modems, multi-user modems, and other data communications equipment, such as bridges, routers, and gateways." The SBA has developed a small business size standard for Telephone Apparatus Manufacturing, which is: All such firms having 1,000 or fewer employees. According to Census Bureau data for 2002, there were a total of 518 establishments in this category that operated for the entire year. Of this total, 511 had employment of under 1,000, and an additional 7 had employment of 1,000 to 2,499. Thus,

under this size standard, the majority of firms can be considered small.

88. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment." The SBA has developed a small business size standard for firms in this category, which is: All such firms having 750 or fewer employees. According to Census Bureau data for 2002, there were a total of 1,041 establishments in this category that operated for the entire year. Of this total, 1,010 had employment of under 500, and an additional 13 had employment of 500 to 999. Thus, under this size standard, the majority of firms can be considered small.

89. *Other Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged in manufacturing communications equipment (except telephone apparatus, and radio and television broadcast, and wireless communications equipment)." The SBA has developed a small business size standard for Other Communications Equipment Manufacturing, which is: all such firms having 750 or fewer employees. According to Census Bureau data for 2002, there were a total of 503 establishments in this category that operated for the entire year. Of this total, 493 had employment of under 500, and an additional 7 had employment of 500 to 999. Thus, under this size standard, the majority of firms can be considered small.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

90. The specific proposals under consideration in the NPRM would not, if adopted, result in additional recordkeeping requirements for small businesses.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

91. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance and reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or part thereof, for small entities.

92. In this NPRM, we seek comment on a package of potential reforms to the E-rate program that can be implemented in funding year 2011 (July 1, 2011–June 30, 2012). We seek to improve and modernize the program by streamlining the E-rate application process, providing greater flexibility to choose the most cost-effective and educationally useful broadband services, and expanding the reach of broadband to the classroom. More particularly, these proposed reforms include: improving and simplifying the current E-rate application process; codifying the requirement that competitive bidding processes be "fair and open"; simplifying the way schools calculate their discounts; conforming the E-rate definition of "rural" to the Department of Education's definition; allowing greater flexibility in the use of wireless Internet access for educational purposes away from school grounds; allowing recipients the option of leasing low-cost fiber; expanding the reach of broadband in residential schools that serve populations facing unique challenges; creating a predictable funding mechanism that would provide a per student amount for internal connections each year, while eliminating support for basic maintenance of internal connections; indexing the current $2.25 billion cap on E-rate disbursements to inflation; and creating a process for schools and libraries to dispose of obsolete equipment.

93. As note, we believe the proposals and options being put out for comment will not have a significant economic impact on small entities under the E-rate program. Indeed the proposals and options will benefit small entities by simplifying the application process, eliminating burdensome restrictions on the purchase of certain broadband technologies, creating a more stable and predictable funding pool, and allowing more applicants to receive program funding, while ensuring that the amount of funding available keeps pace with the rate of inflation. Because this NPRM does not propose additional regulation for service providers and equipment vendors, these small entities will experience no significant additional burden. We nonetheless invite commenters, in responding to the questions posed and tentative conclusions in the NPRM, to discuss any economic impact that such changes may have on small entities, and possible alternatives.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

94. None.

B. Paperwork Reduction Act Analysis

95. This document contains proposed modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the "information collection burden for small business concerns with fewer than 25 employees."

C. Ex Parte Presentations

96. These matters shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other requirements pertaining to oral and written presentations are set forth in § 1.1206(b) of the Commission's rules.

List of Subjects in 47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications

Commission proposes to amend 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

1. The authority citation continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 201, 205, 214, and 254 unless otherwise noted.

2. Section 54.5 is amended by revising the definition for "Rural area" to read as follows:

§ 54.5 Terms and definitions.

* * * * *

Rural area. For purposes of the rural health care universal service support mechanism, a "rural area" is an area that is entirely outside of a Core Based Statistical Area; is within a Core Based Statistical Area that does not have any Urban Area with a population of 25,000 or greater; or is in a Core Based Statistical Area that contains an Urban Area with a population of 25,000 or greater, but is within a specific census tract that itself does not contain any part of a Place or Urban Area with a population of greater than 25,000. "Core Based Statistical Area" and "Urban Area" are as defined by the Census Bureau and "Place" is as identified by the Census Bureau.

* * * * *

3. Section 54.500 is revised to read as follows:

§ 54.500 Terms and definitions.

(a) *Applicant.* For purposes of this subpart, an "applicant" is an eligible school or library, or a consortium that includes an eligible school or library.

(b) *Billed entity.* A "billed entity" is the entity that remits payment to service providers for services rendered to eligible schools and libraries.

(c) *Educational purposes.* For purposes of this subpart, activities that are integral, immediate, and proximate to the education of students, or in the case of libraries, integral, immediate and proximate to the provision of library services to library patrons, qualify as "educational purposes." Activities that occur on library or school property are presumed to be integral, immediate, and proximate to the education of students or the provision of library services to library patrons.

(d) *Elementary school.* An "elementary school" is a non-profit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

(e) *Internal connections.* For purposes of this subpart, a service is eligible for support as a component of an institution's "internal connections" if such service is necessary to transport information within one or more instructional buildings of a single school campus or within one or more non-administrative buildings that comprise a single library branch.

(f) *Library.* A "library" includes:

(1) A public library;

(2) A public elementary school or secondary school library;

(3) An academic library;

(4) A research library, which for the purpose of this section means a library that:

(i) Makes publicly available library services and materials suitable for scholarly research and not otherwise available to the public; and

(ii) Is not an integral part of an institution of higher education; and

(5) A private library, but only if the State in which such private library is located determines that the library should be considered a library for the purposes of this definition.

(g) *Library consortium.* A "library consortium" is any local, statewide, regional, or interstate cooperative association of libraries that provides for the systematic and effective coordination of the resources of schools, public, academic, and special libraries and information centers, for improving services to the clientele of such libraries. For the purposes of these rules, references to library will also refer to library consortium.

(h) *Lowest corresponding price.* "Lowest corresponding price" is the lowest price that a service provider charges to non-residential customers who are similarly situated to a particular school, library, or library consortium for similar services.

(i) *Master contract.* A "master contract" is a contract negotiated with a service provider by a third party, the terms and conditions of which are then made available to an eligible school, library, rural health care provider, or consortium that purchases directly from the service provider.

(j) *Minor contract modification.* A "minor contract modification" is a change to a universal service contract that is within the scope of the original contract and has no effect or merely a negligible effect on price, quantity, quality, or delivery under the original contract.

(k) *National school lunch program.* The "national school lunch program" is a program administered by the U.S. Department of Agriculture and State agencies that provides free or reduced price lunches to economically disadvantaged children. A child whose family income is between 130 percent and 185 percent of applicable family size income levels contained in the nonfarm poverty guidelines prescribed by the Office of Management and Budget is eligible for a reduced price lunch. A child whose family income is 130 percent or less of applicable family size income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget is eligible for a free lunch.

(l) *Pre-discount price.* The "pre-discount price" means, in this subpart, the price the service provider agrees to accept as total payment for its telecommunications or information services. This amount is the sum of the amount the service provider expects to receive from the eligible school or library and the amount it expects to receive as reimbursement from the universal service support mechanisms for the discounts provided under this subpart.

(m) *Priority one services.* For purposes of this subpart, "priority one services" are telecommunications services, Internet access, and information services as designated annually by the Commission in the Eligible Services List.

(n) *Priority two services.* For purposes of this subpart, "priority two services" are internal connections, as designated annually by the Commission in the Eligible Services List.

(o) *Rural area.* For purposes of this subpart, a "rural area" is within a territory whose locale code is classified as either rural-fringe, rural-distant, or rural-remote by the U.S. Department of Education's National Center for Education Statistics.

(p) *Secondary school.* A "secondary school" is a non-profit institutional day or residential school that provides secondary education, as determined under State law. A secondary school does not offer education beyond grade 12.

(q) *State telecommunications network.* A "State telecommunications network" is a State government entity that procures, among other things, telecommunications offerings from multiple service providers and bundles such offerings into packages available to schools, libraries, or rural health care providers that are eligible for universal service support, or a State government entity that provides, using its own facilities, such telecommunications offerings to such schools, libraries, and rural health care providers.

4. Section 54.501 is amended by revising paragraph (a) to read as follows:

§ 54.501 Eligibility for service provided by telecommunications carriers.

(a) Telecommunications carriers shall be eligible for universal service support under this subpart for providing supported services to eligible applicants.

* * * * *

5. Revise *§* 54.502 is to read as follows:

§ 54.502 Supported services.

(a) *Telecommunications services.* For purposes of this subpart, supported telecommunications services provided by telecommunications carriers include all commercially available telecommunications services in addition to all reasonable charges that are incurred by taking such services, such as State and Federal taxes. Charges for termination liability, penalty surcharges, and other charges not included in the cost of taking such service shall not be covered by the universal service support mechanisms. Supported telecommunications services are designated annually in the Eligible Services List by the Commission in accordance with § 54.503 of the Commission's rules.

(b) *Internet access and information services.* For purposes of this subpart, supported Internet access and information services include basic conduit access to the Internet and the services defined in § 54.5 of the Commission's rules as Internet access. Supported Internet access and information services are designated annually by the Commission in the Eligible Services List in accordance with § 54.503 of the Commission's rules.

(c) *Internal connections.* For purposes of this subpart, supported internal connections are defined in § 54.500(e) as eligible services. Discounts are not available for internal connections in non-instructional buildings of a school or school district, or in administrative buildings of a library, to the extent that a library system has separate administrative buildings, unless those internal connections are essential for the effective transport of information to an instructional building of a school or to a non-administrative building of a library. Internal connections do not include connections that extend beyond a single school campus or single library branch. There is a rebuttable presumption that a connection does not constitute an internal connection if it crosses a public right-of-way. Supported internal connections are defined and listed in the Eligible Services List as updated annually in accordance with § 54.503 of the Commission's rules.

(d) Non-telecommunications carriers shall be eligible for universal service support under this subpart for providing the supported services described in paragraph (b) and (c) of this section for eligible schools, libraries, and consortia including those entities. Such services provided by non-telecommunications carriers shall be subject to all the provisions of this subpart, except §§ 54.501(a), 54.502(a), and 54.515.

6. § 54.504 [Amended]

a. Remove paragraphs (a) and (b);

b. Redesignate paragraph (c) as paragraph (a);

c. Redesignate paragraphs (d), (e), (f), (g), and (h) as paragraphs (b), (c), (d), (e), and (f);

d. Revise newly designated paragraphs (a) introductory text, (a)(1) introductory text, (a)(1)(iv), (a)(1)(v), (a)(1)(vii), (a)(1)(xi), (e) introductory text, (e)(1), and (e)(2).

The revisions read as follows:

§ 54.504 Requests for services.

(a) *Filing of FCC Form 471.* An applicant seeking to receive discounts for eligible services as designated by the Commission on the eligible services list under this subpart shall, upon signing a contract for eligible services, submit a completed FCC Form 471 to the Administrator. A commitment of support is contingent upon the filing of FCC Form 471.

(1) The FCC Form 471 shall be signed by the person authorized to order telecommunications services for the applicant and shall include that person's certification under oath that:

* * * * *

(iv) All of the schools and libraries listed on the FCC Form 471 application are:

(A) Covered by an individual or higher-level technology plan for using the services requested in the application that meets the requirements of § 54.508 of the Commission's rules;

(B) Are not covered by a technology plan because the application requests only eligible priority one services as defined in § 54.500(1) and the applicant is subject to State or local technology planning requirements; or

(C) Are not covered by a technology plan because the application requests only basic telecommunications services.

(v) The applicant's technology plan(s) has/have been/will be approved by a State or other authorized body consistent with § 54.508 of this subpart.

* * * * *

(vii) The services the applicant purchases at discounts will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value. Services that the applicant purchases at discounts are not deemed sold, resold, or transferred in consideration for money or any other thing of value if disposed pursuant to § 54.513.

* * * * *

(xi) All bids submitted to an applicant seeking eligible services were carefully considered and the most cost-effective bid was selected in accordance with § 54.510 of this subpart, with price being the primary factor considered, and is the most cost-effective means of meeting educational needs and technology plan goals.

* * * * *

(e) Rate disputes. If they reasonably believe that the lowest corresponding price is unfairly high or low, applicants may have recourse to the Commission, regarding interstate rates, and to State commissions, regarding intrastate rates.

(1) Applicants may request lower rates if the rate offered by the carrier does not represent the lowest corresponding price.

(2) Service providers may request higher rates if they can show that the lowest corresponding price is not compensatory, because the relevant applicant is not similarly situated to and subscribing to a similar set of services to the customer paying the lowest corresponding price.

* * * * *

7. Section 54.505 is amended by revising paragraph (b) introductory text, (b)(3)(i), (b)(3)(ii), and (b)(4) to read as follows:

§ 54.505 Discounts.

* * * * *

(b) *Discount percentages.* The discounts available to eligible schools and libraries shall range from 20 percent to 90 percent of the pre-discount price for eligible services as designated by the Commission. The discounts available to a particular applicant shall be determined by indicators of poverty and high cost.

* * * * *

(3) * * *

(i) Schools and libraries whose locale code is city, suburb, town-fringe, or rural-fringe, as measured by the U.S. Department of Education's National Center for Education Statistics, shall be designated as urban.

(ii) Schools and libraries whose locale code is town-distant, town-remote, rural-distant, or rural-remote, as measured by the U.S. Department of Education's National Center for Education Statistics, shall be designated as rural.

(4) Applicants shall calculate discounts on supported services described in § 54.502 or other supported special services described in § 54.503 by first calculating a single discount percentage rate for the entire school district by dividing the total number of students eligible for the National School Lunch Program or other alternative eligible mechanism by the total number of students in the district. Applicants shall then compare that single figure against the discount matrix to determine the school district's discount for priority one and priority two services. All schools and libraries within that school district shall receive the same discount rate.

* * * * *

8. Section 54.507 is amended by revising paragraphs (a), (c), and (d) introductory text, to read as follows:

§ 54.507 Cap.

(a) *Amount of the annual cap.* The annual funding cap on Federal universal service support for schools and libraries shall be $2.25 billion in funding year 2010. In funding year 2011 and subsequent funding years, the funding cap shall be automatically increased annually to take into account increases in the rate of inflation as calculated in (a)(1) of this section. All funds collected that are unused shall be carried forward into subsequent funding years for use in the schools and libraries support mechanism in accordance with the public interest and notwithstanding the annual cap.

(1) *Increase Calculation.* To measure increases in the rate of inflation for annual automatic increase purposes, the Commission shall use the Gross Domestic Product Chain-type Price Index (GDP–CPI). To compute the annual increase, the average of the GDP–CPI for four quarters shall be calculated by adding the four GDP–CPI quarters and dividing the sum by 4. The increase shall be rounded to the nearest 0.1 percent by rounding 0.05 percent and above to the next higher 0.1 percent and otherwise rounding to the next lower 0.1 percent. This percentage increase shall be applied to the amount of the annual funding cap from the previous funding year. If the yearly average GDP–CPI decreases or stays the same, the annual funding cap shall remain the same as the previous year.

(2) *Public Notice.* When the calculation of the yearly average GDP–CPI is determined, the Commission shall publish a Public Notice in the **Federal Register** within 60 days announcing any increase of the annual funding cap based on the rate of inflation.

* * * * *

(c) *Requests.* Funds shall be available to fund discounts for applicants on a first-come-first-served basis, with requests accepted beginning on the first of July prior to each funding year. The Administrator shall maintain on the Administrator's Web site a running tally of the funds already committed for the existing funding year. The Administrator shall implement an initial filing period that treats all applicants filing within that period as if their applications were simultaneously received. The initial filing period shall begin on the date that the Administrator begins to receive applications for support, and shall conclude on a date to be determined by the Administrator. The Administrator may implement such additional filing periods as it deems necessary.

(d) *Annual filing requirement.* Applicants shall file new funding requests for each funding year no sooner than the July 1 prior to the start of that funding year. Applicants must use recurring services for which discounts have been committed by the Administrator within the funding year for which the discounts were sought. The deadline for implementation of non-recurring services will be September 30 following the close of the funding year. An applicant may request and receive from the Administrator an extension of the implementation deadline for non-recurring services if it satisfies one of the following criteria:

* * * * *

9. Revise § 54.508 to read as follows:

§ 54.508 Technology plans.

(a) *When plan is necessary and content.* Applicants seeking only basic telecommunications services do not need to develop a technology plan when requesting schools and libraries universal service support. Applicants must develop a technology plan when requesting schools and libraries universal service support;

(1) For eligible priority one services if they are not subject to State or local technology planning requirements and;

(2) For eligible priority two services. Applicants must document the date on which the technology plan was created. The technology plan must comply with State and local technology planning requirements or meet the standards established by the U.S. Department of Education's Enhancing Education through Technology, 20 U.S.C. 6764, or the U.S. Institute for Museum and Library Services. The technology plan must include the following elements:

(b) *Approval.* Applicants required to prepare technology plans under this subpart must have such plan(s) approved. An applicant that has developed a technology plan approved by the State, the U.S. Department of Education's Enhancing Education through Technology, or the U.S. Institute for Museum and Library Services has an approved plan for purposes of the universal service program. Other applicants must obtain approval from either the Administrator or an independent entity approved by the Commission or certified by the Administrator as qualified to provide such approval. All parties who will provide such approval must apply the standards set forth in paragraph (a) of this section.

(c) *Timing of certification.* Applicants must certify on the FCC Form 471 that they have prepared a technology plan, if required. Applicants must also confirm in FCC Form 486 that their technology plan was approved before they began receiving services pursuant to it.

10. Add § 54.510 to read as follows:

§ 54.510 Competitive bidding requirements.

(a) All entities participating in the schools and libraries universal service support program must conduct a fair and open competitive bidding process, consistent with all requirements set forth in this subpart.

(b) *Competitive bid requirements.* An applicant shall:

(1) Seek competitive bids for all eligible priority one services in accordance with State or local procurement requirements. If requested by the Administrator, each applicant bears the burden of demonstrating compliance with State or local procurement requirements. Unless there is an existing contract signed on or before July 10, 1997, pursuant to § 54.511(c), an applicant that is not subject to State or local procurement requirements shall follow the FCC Form 470 posting requirements as set forth in paragraph (c) of this section to meet the competitive bidding requirements.

(2) Seek competitive bids for all eligible priority two services pursuant to the requirements established in this subpart, except as provided in § 54.511(c). These competitive bid requirements apply in addition to State and local competitive bid requirements and are not intended to preempt such State and local requirements.

(c) *Posting of FCC Form 470.* (1) An applicant seeking to receive discounts for eligible internal connections products and services under this subpart shall post an FCC Form 470 to

initiate the competitive bidding process. An eligible applicant that is not subject to State or local procurement requirements and that is seeking to receive for eligible priority one service shall post an FCC Form 470 to initiate the competitive bidding process. The FCC Form 470 and any request for proposal cited in the FCC Form 470 should include:

(i) A list of specified services for which the applicant anticipates they are likely to seek discounts; and

(ii) Sufficient information to enable bidders to reasonably determine the needs of the applicant.

(2) The FCC Form 470 shall be signed by the person authorized to order eligible services for the eligible applicant and shall include that person's certification under oath that:

(i) The schools meet the statutory definition of elementary and secondary schools found under section 254(h) of the Act, as amended in the No Child Left Behind Act of 2001, *20 U.S.C. 7801(18)* and *(38),* do not operate as for-profit businesses, and do not have endowments exceeding $50 million;

(ii) The libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 do not operate as for-profit businesses and whose budgets are completely separate from any school (including, but not limited to, elementary and secondary schools, colleges, and universities).

(iii) All of the individual schools, libraries, and library consortia receiving eligible services are covered by:

(A) Individual technology plans for using the internal connections products or services requested in the application that meets the requirements of § 54.508; or

(B) No technology plan is required by the Commission's rules.

(iv) The technology plan(s) has/have been/will be approved consistent with § 54.508 or no technology plan is required.

(v) The services the applicant purchases at discounts will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value except as allowed by § 54.513.

(vi) Support under this support mechanism is conditional upon the school(s) and library(ies) securing access to all of the resources, including computers, training, software, maintenance, internal connections, and electrical connections necessary to use the services purchased effectively.

(vii) All bids submitted for eligible priority one and priority two products and services will be carefully considered, with price being the primary factor, and the bid selected will be for the most cost-effective offering consistent with § 54.511.

(3) The Administrator shall post each FCC Form 470 that it receives from an eligible school, library, or consortium that includes an eligible school or library on its Web site designated for this purpose.

(4) After posting on the Administrator's Web site an applicant's FCC Form 470, the Administrator shall send confirmation of the posting to the entity requesting service. That entity shall then wait at least four weeks from the date on which its description of services is posted on the Administrator's Web site before making commitments with the selected providers of services. The confirmation from the Administrator shall include the date after which the requestor may sign a contract with its chosen provider(s).

11. Section 54.511 is amended by revising paragraphs (a), (b), (c)(1) introductory text, (c)(1)(ii), (c)(2), (d)(1), removing paragraph (c)(3), and adding paragraph (e) to read as follows:

§ 54.511 Ordering services.

(a) *Selecting a provider of eligible services.* In selecting a provider of eligible services, applicants shall carefully consider all bids submitted and must select the most cost-effective service offering. In determining which service offering is the most cost-effective, entities may consider relevant factors other than the pre-discount prices submitted by providers but price should be the primary factor considered.

(b) *Lowest corresponding price.* Providers of eligible services shall not charge applicants a price above the lowest corresponding price for supported services, unless the Commission, with respect to interstate services or the State commission with respect to intrastate services, finds that the lowest corresponding price is not compensatory. Promotional rates offered by a service provider for a period of more than 90 days must be included among the comparable rates upon which the lowest corresponding price is determined.

(c) *Existing contracts.* (1) A signed contract for services eligible for discounts pursuant to this subpart between an eligible school or library as defined under § 54.501 or consortium that includes an eligible school or library and a service provider shall be exempt from the requirements set forth in § 54.510(b), (c)(3), and (c)(4) as follows:

* * * * *

(ii) A contract signed after July 10, 1997, but before the date on which the universal service competitive bid system described in § 54.510 is operational, is exempt from the competitive bid requirements only with respect to services that are provided under such contract between January 1, 1998 and December 31, 1998.

(2) For an applicant that takes service under or pursuant to a master contract, the date of execution of that master contract represents the applicable date for purposes of determining whether and to what extent the applicant is exempt from the competitive bid requirements.

(d)(1) The exemption from the competitive bid requirements set forth in paragraph (c) of this section shall not apply to voluntary extensions or renewals of existing contracts.

* * * * *

(e) *Contract requirements.* All contracts for eligible products and services must comply with State and local contract laws. Applicants must have a contract or legally binding agreement in place when filing the FCC Form 486. Applicants bear the burden of demonstrating compliance with State and local contract laws and should be prepared to provide the necessary documentation of such compliance at any time during the application review process.

12. Section 54.513 is amended by revising the section heading and adding paragraph (d) to read as follows:

§ 54.513 Resale and transfer of services and disposal of surplus equipment.

* * * * *

(d) *Disposal of Surplus Equipment That Has Exhausted Its Useful Life.* At least five years after its installation date, surplus equipment may be resold for payment or other consideration if:

(1) The equipment has exhausted its useful life;

(2) The school board or other authorized body formally declares the equipment to be surplus;

(3) The school or library notifies USAC within 90 days of reselling or trading the equipment using FCC Form 500 and keeps a record of such disposal for a period of five years following the disposal; and

(4) The disposal process substantially complies with State and local laws, where applicable.

13. Section 54.519 is amended by revising paragraphs (a), (a)(6), and (b) to read as follows:

§ 54.519 State telecommunications networks.

(a) *Telecommunications services.* State telecommunications networks may secure discounts under the universal service support mechanisms on supported telecommunications services (as described in § 54.502) on behalf of applicants. Such State telecommunications networks shall pass on such discounts to applicants and shall:

* * * * *

(6) Comply with the competitive bid requirements set forth in § 54.510(b).

(b) Internet access and installation and maintenance of internal connections. State telecommunications networks either may secure discounts on Internet access and installation and maintenance of internal connections in the manner described in paragraph (a) of this section with regard to telecommunications, or shall be eligible, consistent with § 54.502(d), to receive universal service support for providing such services to applicants.

[FR Doc. 2010–12930 Filed 6–8–10; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF ENERGY

48 CFR Part 970

RIN 1991–AB91

Acquisition Regulation: Agency Supplementary Regulations

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy (DOE) is proposing to amend the Department of Energy Acquisition Regulation (DEAR) on DOE Management and Operating Contracts to make changes to conform to the Federal Acquisition Regulation (FAR), remove out-of-date coverage, and update references. Today's proposed rule does not alter substantive rights or obligations under current law.

DATES: Written comments on the proposed rulemaking must be received on or before close of business July 9, 2010.

ADDRESSES: You may submit comments, identified by DEAR: Subchapter I and RIN 1991–AB91, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *E-mail to: DEARrulemaking@hq.doe.gov.* Include DEAR: Subchapter I and RIN 1991–AB91 in the subject line of the message.

• *Mail to:* U.S. Department of Energy, Office of Procurement and Assistance Management, MA–611, 1000 Independence Avenue, SW., Washington, DC 20585. Comments by e-mail are encouraged.

FOR FURTHER INFORMATION CONTACT: Barbara Binney at (202) 287–1340 or by e-mail *barbara.binney@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Energy Acquisition Regulation (DEAR) Subchapter I has sections that need to be updated to conform with the FAR. The objective of this action is to update the existing DEAR Subchapter I—Agency Supplementary Regulations, Part 970—DOE Management and Operating Contracts to conform it to the FAR. None of these changes are substantive or of a nature to cause any significant expense for DOE or its contractors.

II. Section-by-Section Analysis

DOE proposes to amend the DEAR as follows:

1. Section 970.0100 is amended to add the references for the Code of Federal Regulation (CFR) chapters 1 and 9.

2. Section 970.103 is revised to remove "DEAR" before 970.0309 and remove "FAR" before 3.9 and add in its place "48 CFR subpart" in paragraph (a)(3).

3. Section 970.0404–2 is amended to update the DOE Order to 475.1, Counterintelligence Program.

4. Section 970.19 is amended to revise the subpart heading and the 970.1907 section heading to conform to the FAR.

5. Section 970.1907–1 is redesignated as 970.1907–4 to conform to the FAR.

6. Part 970 is revised by adding a new subpart "970.25 Foreign Acquisition" and section "970.2570 Contract clauses" which provides instructions on when to insert and how to modify the clauses at FAR 52.225–1, Buy American Act—Supplies, and FAR 52.225–9, Buy American Act—Construction Materials, in management and operating contracts.

7. Section 970.3102–05–6 paragraphs (a)(7)(i) and (ii) are amended to clarify that the contract will set forth the reimbursable costs for compensation for personal services, it removes the reference to the personnel appendix. Paragraph (p)(1) revises the reference to the FAR from the "Federal Acquisition Regulation" to "48 CFR."

8. Subpart 970.34 is amended by redesignating 970.3400 as 970.3405 and 970.3400–1 as 970.3405–2 to conform with the FAR.

9. Subpart 970.37 is revised to add the new section "970.3706 Performance-based acquisition" and "970.3706–1 General" which references 970.1100 for policy and guidance on performance-based contracting for management and operating (M&O) contracts.

10. Section 970.3770–1 is amended by adding that the use of DOE directives is prescribed in 970.0470.

11. Section 970.5204–1 is amended by revising the date of the clause and removing "DOE Order 5670.3, Counterintelligence Program" in paragraph (a) of the clause and adding in its place "DOE Order 475.1, Counterintelligence Program, or its successor".

12. Section 970.5223–3 is amended by revising the date of the provision and adding that DOE may grant an extension to the notification or implementation period if necessary as per 10 CFR 707.5 (g) in paragraph (b). This change will provide the contracting officer the authority to extend the time needed for the contractor to submit the workplace substance abuse program plan.

13. Section 970.5223–4 is amended by revising the date of the clause and revising the clause to permit the contracting officer to agree to different date beyond the 30-day notice by the contractor for the submission of the workplace substance abuse program plan. This change will provide the Contracting Officer the authority to extend the time needed for the Contractor to submit the workplace substance abuse program plan.

14. Section 970.5226–1 is amended by revising the punctuation in the last sentence of the clause.

15. Section 970.5232–3 is amended at paragraph (h)(1) to add "or subcontractor's" after "contractor's" and to add "and to interview any current employee regarding such transactions" after "hereunder." Section 871 of the Duncan Hunter National Defense

Authorization Act for Fiscal Year 2009 and section 902 of Title IX of the Recovery Act formalized the current practices permitting access to the Government Accountability Office to records and to interview current employees of contractors and subcontractors administering contracts.

16. Section 970.5235–1 is amended to update the clause to reference the clause 48 CFR 970.5217–1 in paragraph (c) since this clause applies the Work for Others Program. Also, paragraph (d) is amended to add the full title of DOE order 481.1.

17. The rule text is amended as noted in paragraph 15 and in the tables at paragraphs 27 and 28 by removing "FAR" or "DEAR" and adding "48 CFR"; removing "FAR" or "48 CFR"; adding "48 CFR", revising the punctuation; and capitalizing Contractor, Contractor's, and Contracting Officer.

III. Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," (58 FR 51735, October 4, 1993). Accordingly, this rule is not subject to review under that Executive Order by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB).

B. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the United States Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or if it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this rule meets the relevant standards of Executive Order 12988.

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.)* requires that an agency prepare an initial regulatory flexibility analysis for any regulation for which a general notice or proposed rulemaking is required, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities (5 U.S.C. 605(b)). This rule updates references in the DEAR that apply to public contracts and does not impose any additional requirements on small businesses. On the basis of the foregoing, DOE certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. Today's proposed rule does not alter any substantive rights or obligations and consequently, today's proposed rule will not have a significant cost or administrative impact on contractors, including small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE's certification and supporting statement of factual basis will be provided to the Chief Counsel for Advocacy of the Small Business Administration pursuant to 5 U.S.C. 605(b).

D. Review Under the Paperwork Reduction Act

This proposed rule does not impose a collection of information requirement subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Existing burdens associated with the collection of certain contractor data under the DEAR have been cleared under OMB control number 1910–4100.

E. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this proposed rule falls into a class of actions which would not individually or cumulatively have significant impact on the human environment, as determined by DOE's regulations (10 CFR part 1021, subpart D) implementing the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this proposed rule is categorically excluded from NEPA review because the amendments to the DEAR are strictly procedural (categorical exclusion A6). Therefore, this proposed rule does not require an environmental impact statement or environmental assessment pursuant to NEPA.

F. Review Under Executive Order 13132

Executive Order 13132, 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. The Executive Order requires agencies to have an accountability process to ensure meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations (65 FR 13735). DOE has examined the proposed rule and has determined that it does not preempt State law and does 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. No further action is required by Executive Order 13132.

G. Review Under the Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) generally requires a Federal agency to perform a written assessment of costs and benefits of any rule imposing a Federal mandate with costs to State, local or tribal governments, or to the private sector, of $100 million or more. This rulemaking proposes changes that do not alter any substantive rights or obligations. This proposed rule does not impose any mandates.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277), requires Federal agencies to issue a Family Policymaking Assessment for any rulemaking or policy that may affect

family well-being. This rulemaking will have no impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 13211

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use, 66 FR 28355, (May 22, 2001), requires Federal agencies to prepare and submit to Office of Information and Regulatory Affairs of the Office of Management and Budget, a Statement of Energy Effects for any proposed significant energy action. A "significant energy action" is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's proposed rule is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

J. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed the proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Approval by the Office of the Secretary of Energy

Issuance of this proposed rule has been approved by the Office of the Secretary.

List of Subjects in 48 CFR Part 970

Government procurement.

Issued in Washington, DC on May 19, 2010.

Patrick M. Ferraro,

Acting Director, Office of Procurement and Assistance Management, Department of Energy .

Joseph F. Waddell,

Acting Director, Office of Acquisition and Supply Management, National Nuclear Security Administration.

For the reasons set out in the preamble, the Department of Energy is proposing to amend Chapter 9 of Title 48 of the Code of Federal Regulations as set forth below.

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

1. The authority citation for part 970 continues to read as follows:

Authority: 42 U.S.C. 2201; 2282a; 2282b; 2282c; 42 U.S.C. 7101 *et seq.;* 50 U.S.C. 2401 *et seq.*

Subpart 970.01—Management and Operating Contract Regulatory System

970.0100 [Amended]

2. Section 970.0100 is amended in the first sentence, by adding, "(Chapter 1 of Title 48 Code of Federal Regulations (CFR))" after "(FAR)" and by adding "(Chapter 9 of Title 48 CFR)" after "DEAR".

970.0103 [Amended]

3. Section 970.0103 is amended by:

a. Removing, in introductory paragraph (a) heading, "part" and adding in its place "Part";

b. Removing, in paragraph (a)(3) "DEAR"; and

c. Removing, in paragraph (a)(3) "FAR 3.9" and adding in its place "48 CFR subpart 3.9".

970.0404–2 [Amended]

4. Section 970.0404–2 is amended in paragraph (b) by removing "5670.3 (as amended)." at the end of the first sentence and adding in its place "475.1, Counterintelligence Program, or its successor."

Subpart 970.19—Small Business Programs

5. Revise subpart 970.19 subpart heading to read as set forth above.

6. Revise 970.1907 section heading to read as set forth below:

970.1907 The Small Business Subcontracting Program.

* * * * *

970.1907–1 [Redesignated]

7. Section 970.1907–1 is redesignated as 970.1907–4.

8. Add a new subpart 970.25, consisting of 970.2570, to part 970 to read as follows:

Subpart 970.25—Foreign Acquisition

970.2570 Contract clauses.

Contracting officers shall insert the clauses at 48 CFR 52.225–1, Buy American Act—Supplies, and 48 CFR 52.225–9, Buy American Act—Construction Materials, in management and operating contracts. The clause at 48 CFR 52.225–1 shall be modified in paragraph (d) by substituting the word "use" for the word "deliver."

970.2673–1 [Amended]

9. Section 970.2673–1 is amended by:

a. Removing the ":" in introductory text and adding in its place a "—";

b. Removing the "," in paragraph (a) and adding in its place a ";"; and

c. Removing the "," in paragraph (b) and adding in its place a ";".

10. Section 970.3102–05–6 is amended by:

a. Revising paragraphs (a)(7)(i) and (a)(7)(ii) to read as set forth below; and

b. Removing "Federal Acquisition Regulation" in paragraph (p)(1) and adding in its place "48 CFR".

970.3102–05–6 Compensation for personal services.

(a) * * *

(7)(i) Reimbursable costs for compensation for personal services are to be set forth in the contract. This compensation shall be set forth using the principles and policies of 48 CFR 31.205–6, Compensation, as supplemented by this section, 970.3102–05–6, and other pertinent parts of the DEAR. Costs that are unallowable under other contract terms shall not be allowable as compensation for personnel services.

(ii) The contract sets forth, in detail, personnel costs and related expenses allowable under the contract and documents personnel policies, practices and plans which have been found acceptable by the contracting officer. The contractor will advise DOE of any proposed changes in any matters covered by these policies, practices, or plans which relate to personnel costs. Types of personnel costs and related expenses addressed in the contract are as follows: Salaries and wages; bonuses and incentive compensation; overtime, shift differential, holiday, and other premium pay for time worked; welfare benefits and retirement programs; paid time off, and salaries and wages to employees in their capacity as union stewards and committeemen for time spent in handling grievances, or serving on labor management (contractor)

committees provided, however, that the contracting officer's approval is required in each instance of total compensation to an individual employee above an annual rate as specified in the contract.

* * * * *

970.3102–05–46 [Amended]

11. Section 970.3102–05–46 is amended in paragraph (e)(3) introductory text by adding "48 CFR" before "31.109".

970.3400 and 970.3400–1 [Redesignated]

12. Redesignate 970.3400 as 970.3405 and 970.3400–1 as 970.3405–2.

13. Add a new section 970.3706 and 970.3706–1 to subpart 970.37 to read as follows:

970.3706 Performance-based acquisition.

970.3706–1 General.

For policy and guidance on performance-based contracting for management and operating (M&O) contracts, see 970.1100.

14. Section 970.3770–1 is revised to read as follows:

970.3770–1 Policy.

Contractors managing the Department of Energy (DOE) facilities shall be required to comply with the DOE Directives applicable to facilities management. The use of the DOE Directives is prescribed in 970.0470.

15. Section 970.5204–1 is amended by:

a. Revising the date of the clause to read as set forth below; and

b. Removing "DOE Order 5670.3, Counterintelligence Program;" in paragraph (a) of the clause and adding in its place "DOE Order 475.1, Counterintelligence Program, or its successor;".

The revision reads as follows:

970.5204–1 Counterintelligence.

* * * * *

COUNTERINTELLIGENCE (XXX 20XX)

* * * * *

16. Section 970.5223–3 is amended by:

a. Revising the date of the provision to read as set forth below; and

b. Adding a new sentence at the end of paragraph (b) as set forth below.

The revision and addition read as follows:

970.5223–3 Agreement regarding Workplace Substance Abuse Programs at DOE Sites.

* * * * *

AGREEMENT REGARDING WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (XXX 20XX)

* * * * *

(b) * * * DOE may grant an extension to the notification or implementation period if necessary as per 10 CFR 707.5 (g).

* * * * *

17. Section 970.5223–4 is amended by:

a. Revising the date of the clause to read as set forth below; and

b. Revising paragraph (c)(1).

The revisions read as follows:

970.5223–4 Workplace Substance Abuse Programs at DOE sites.

* * * * *

WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (XXX 20XX)

* * * * *

(c) *Subcontracts.* (1) The Contractor agrees to notify the Contracting Officer reasonably in advance of, but not later than 30 days prior to, the award of any subcontract the Contractor believes may be subject to the requirements of 10 CFR part 707, unless the Contracting Officer agrees to a different date.

* * * * *

(End of Clause)

18. Section 970.5232–3 is amended by:

a. Revising the date of the clause to read as set forth below; and

b. Adding "or subcontractor's" after "contractor's" and adding "and to interview any current employee regarding such transactions" after "hereunder" in paragraph (h)(1).

The revision reads as follows:

970.5232–3 Accounts, records, and inspection.

* * * * *

ACCOUNTS, RECORDS, AND INSPECTION (XXX 20XX)

* * * * *

19. Section 970.5235–1 is amended by:

a. Revising the introductory text and the date of the clause to read as set forth below;

b. Removing "DOE Order 481.1, Work for Others (Non-Department of Energy Funded Work) (see current version)." in paragraph (c) and adding in its place "the clause 48 CFR 970.5217–1 Work for Others Program."; and

c. Adding ", Work for Others (Non-Department of Energy Funded Work), or its successor" after "DOE Order 481.1" in paragraph (d).

The revisions read as follows:

970.5235–1 Federally funded research and development center sponsoring agreement.

As prescribed in 970.3501–4, insert the following clause:

FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER SPONSORING AGREEMENT (XXX 20XX)

* * * * *

PART 970—[AMENDED]

20. In the table below, for each section indicated in the left column, remove the word indicated in the middle column from where it appears in the section, and add the word in the right column:

Section	Remove	Add
970.1504–1–4(e), in the introductory text, and (e)(2) in the introductory text	":"	"—"
970.2201–1–1	"48 CFR Subpart"	"48 CFR subpart"
970.2201–1–2(a)(1)(ii)(A)	"A review must:"	"A review must—"
970.2201–1–2(a)(1)(ii)(C)	"including those:"	"including those—"
970.2201–1–2(a)(1)(iii)	"10 CFR Part 707.4"	"10 CFR 707.4"
970.2201–1–2(a)(1)(iii)	"10 CFR Part 707"	"10 CFR part 707"
970.2201–1–2(a)(1)(v)(A)	"authorization:"	"authorization—"
970.2305–2(b)	"48 CFR 23.5"	"48 CFR subpart 23.5"
970.2306(b)(4)	"48 CFR 970.5223–3"	"970.5223–3"
970.2672–2	"48 CFR"	"subpart"
970.5215–3(b)(4)(iii) in the first sentence	"contracting officer"	"Contracting Officer"
970.3204–1(a)	"48 CFR subpart 932.4"	"subpart 932.4"
970.5222–1 in the last sentence	"contractor"	"Contractor"
970.5223–1(b) in the third sentence	"contractor's"	"Contractor's"
970.5223–1(b)(2)	"(ES&H)"	"ES&H"
970.5226–1	"contracting officer"	"Contracting Officer"
970.5226–1 in the second sentence	"contractor"	"Contractor"
970.5226–1 in the third sentence	"Appendix."	"the Appendix."

Section	Remove	Add
970.5232–2(e)(2)(iv)(B) in the last sentence	"contractor"	"Contractor"
970.5232–3(d) in the second sentence	"Clause __,"	"Clause 970.5204–3,"
970.5232–3(j) in the last sentence	"Penalties for Unallowable costs;"	"Penalties for Unallowable Costs;"

21. In the table below, for each section indicated in the left column, remove the word indicated in the right column from where it appears in the section:

Section	Remove
970.2201–1–2(a)(1)(ii)	"48 CFR"
970.2671–2	"48 CFR"
970.2672–3	"48 CFR"
970.2673–2	"48 CFR"
970.5226–1 introductory text	"48 CFR"
970.5226–2 introductory text	"48 CFR"
970.5226–3 introductory text	"48 CFR"
970.5232–5(b) in two places	"FAR"

[FR Doc. 2010–13678 Filed 6–8–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF HOMELAND SECURITY

48 CFR Parts 3015, 3016, and 3052

[Docket No. DHS–2010–0045]

RIN 1601–AA43

Revision of Department of Homeland Security Acquisition Regulation; Limitations on Subcontracting in Emergency Acquisitions (HSAR Case 2009–005)

AGENCY: Office of the Chief Procurement Officer, DHS.

ACTION: Proposed rule with requests for comments.

SUMMARY: The Department of Homeland Security (DHS) is proposing to amend its Homeland Security Acquisition Regulation (HSAR) to implement a statutory requirement limiting the use of subcontractors on cost-reimbursement type contracts entered into by the Department to facilitate the response to or recovery from a natural disaster or act of terrorism or other man-made disaster.

DATES: Comments and related material submitted electronically must be submitted to the Federal eRulemaking Portal *http://www.regulations.gov.* on or before August 9, 2010. Comments and related material submitted by mail must reach the Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation Branch at the address shown below on or before August 9, 2010 to be considered in the formation of the final rule.

ADDRESSES: You may submit comments identified by DHS docket number DHS–2010–0045, using any one of the following methods:

(1) *Via the internet at Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments and use docket number DHS–2010–0045.

(2) By mail to the Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation Branch, *Attn:* Jeremy Olson, 245 Murray Drive, Bldg. 410 (RDS), Washington, DC 20528.

FOR FURTHER INFORMATION CONTACT: Jeremy Olson, Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation Branch, (202) 447–5197.

SUPPLEMENTARY INFORMATION:

I. Request for Comments

Interested persons are invited to participate in this rulemaking by submitting comments and related materials. Comments and related materials should be organized by HSAR Part, and indicate the specific section that is being commented on. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. *See* **ADDRESSES** above for information on how to submit comments. If you submit comments by mail, please submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. You may submit comments either by mail or via the internet as identified in the **ADDRESSES** section above; but to avoid duplication DHS requests that you submit comments and materials by only one method. If you would like DHS to acknowledge receipt of comments submitted by mail, please enclose a self-addressed, stamped postcard or envelope. DHS will consider all comments and material received during the comment period.

Viewing comments and documents: To view comments and read background documents related to this rulemaking, go to *http://www.regulations.gov,* which contains relevant instructions under the FAQs tab on the home page.

II. Background

Section 692 of the Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA), Public Law 109–295, 120 Stat. 1394, 1409 (Oct. 4, 2006), establishes a limitation on subcontracting for cost-reimbursement type contracts above the simplified acquisition threshold entered into to facilitate the response to or recovery from a natural disaster or act of terrorism or other man-made disaster. Congress enacted this limitation based on findings that excessive tiering of subcontractors under disaster recovery cost-reimbursement type contracts leads to inflated overhead charges and poor prime contractor oversight over subcontractor work. In order to implement the statutory requirement, DHS proposes to amend the Homeland Security Acquisition Regulation (HSAR) to add implementing policy.

III. Discussion of Proposed Rule

The proposed rule would revise 48 CFR part 3015, Contracting by Negotiation; part 3016, Types of Contracts; and part 3052, Solicitation Provisions and Contract Clauses, to limit the use of subcontractors by prime contractors on certain DHS acquisitions above the simplified acquisition threshold (as defined by section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) (currently $100,000)), unless DHS determines that such requirements are not feasible or practicable. The authority to determine whether or not the subcontracting requirements are not feasible or practicable rests one level above the contracting officer. This determination may be made on the basis of analysis of information provided by an offeror seeking a DHS contract or the contracting officer may prepare a recommended Determination & Finding for review and approval by the deciding official.

Contracts to be covered by the proposed regulation are those awarded in response to or recovery from: (1) A major disaster or emergency declared by the President under Title IV or Title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as

amended (42 U.S.C. 5121–5207) (*see http://www.fema.gov/news/disasters.fema#sev2* for a list of declarations); (2) An uncontrolled fire or fire complex, threatening such destruction as would constitute a major disaster, and for which the Federal Emergency Management Agency has approved a fire management assistance declaration in accordance with regulatory criteria at 44 CFR 204.21 (*see http://www.fema.gov/news/disasters.fema#sev2* for a list of declarations); or (3) An incident for which the National Operations Center (NOC), through the National Response Coordination Center (NRCC), coordinates the activation of the appropriate Emergency Support Functions and the Secretary of Homeland Security has designated a Federal Resource Coordinator (FRC) to manage Federal resource support. Each of these three types of declarations is discussed below.

Stafford Act Major Disaster or Emergency Declaration

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 through 5207 (The Stafford Act), and its implementing regulations at 44 CFR part 206, set forth a process for a Governor to request the President to declare a major disaster or emergency. *Key points of the process are set forth below:*

- If an event is beyond the combined response capabilities of the State and affected local governments; and
- If, based on the findings of a joint Federal-State-local Preliminary Damage Assessment (PDA), the damage is of sufficient severity and magnitude to warrant assistance under the Stafford Act. In a particularly fast-moving or clearly devastating disaster, there may be an expedited declaration, and the PDA may be deferred until after the declaration.
- The President may direct emergency assistance without a Governor's request if an incident occurs that involves a subject area that is exclusively or preeminently the responsibility of the United States. The President will consult the Governor of any affected State, if practicable.
- FEMA may provide accelerated Federal assistance and support where necessary to save lives, prevent human suffering, or mitigate severe damage, even in the absence of a specific request. (The Governor of the affected State will be consulted if practicable, but this consultation shall not delay or impede the provision of such rapid assistance.)

Fire Management Assistance Declarations

A request for a fire management assistance declaration is made by the Governor of a State to FEMA while a fire is burning uncontrolled. FEMA develops a Regional summary and approves or denies the State's request based on:

- The conditions that existed at the time of the State's request;
- Whether or not the fire or fire complex threatens such destruction as would constitute a major disaster.

There are four criteria FEMA uses to evaluate the threat posed by a fire or fire complex:

- Threat to lives and improved property, including threats to critical facilities/infrastructure, and critical watershed areas;
- Availability of State and local firefighting resources;
- High fire danger conditions, as indicated by nationally accepted indices such as the National Fire Danger Ratings System; and
- Potential major economic impact.

After rendering a determination, FEMA notifies the State.

Designation of Federal Resource Coordinator in Non-Stafford Act Situations

The Department of Homeland Security (DHS) sometimes takes action to support a Federal department or agency that has requested DHS assistance in handling a disaster that falls under the requesting department or agency's jurisdiction. Key operational units that may be activated include the National Response Coordination Center (NRCC), Regional Response Coordination Center (RRCC), and Joint Field Office (JFO).

Federal departments and agencies routinely manage the response to incidents under their statutory or executive authority that do not require the assistance of other Federal agencies. When a Federal entity with primary responsibility and authority for handling an incident requires assistance, that agency may request DHS coordination of Federal multiagency assistance. In such cases, DHS coordinates assistance using the procedures and structures within the *National Response Framework.* Generally, the requesting agency funds the participation of other Federal departments and agencies in accordance with provisions of the Economy Act unless other pertinent authorities exist. To initiate Federal-to-Federal support, the requesting agency submits a request for assistance to the DHS Executive Secretary via the National Operations Center (NOC). Requests include a summary of the situation, types and amount of resources needed, financial information, and any other appropriate details.

Upon approval of the request, the Secretary of Homeland Security issues an operations order to the NOC. The NOC, through the NRCC, coordinates the activation of the appropriate Emergency Support Functions. The Secretary of Homeland Security designates a Federal Resource Coordinator (FRC) to manage Federal resource support. In circumstances requiring extraordinary coordination, the Secretary may appoint a Principal Federal Official to serve as his or her representative in the field.

The requesting agency designates a senior official to work in coordination with the FRC as part of the Unified Coordination Group to identify and define specific support requirements. The requesting agency also provides comptrollers to the NRCC, RRCC, and JFO, as appropriate, to oversee financial management activities. An RRCC may be fully or partially activated to facilitate the deployment of resources until a JFO is established. Facilities, such as mobilization centers, may be established to accommodate personnel, equipment, and supplies. Federal agencies provide resources under interagency reimbursable agreements or their own authorities.

Although the Department considered establishment of separate disaster declaration standards applicable only to section 692, it was determined not to be feasible or practicable. Declaration of a disaster under such separate 692 standards would likely confuse the public in the circumstance where the President or other recognized officials did not make a declaration for the same incident under the Stafford Act or other pre-existing authority.

The limitations proposed for this amendment to the HSAR are in addition to, and do not replace, the Federal Acquisition Regulation (FAR) limitations on pass-through charges at FAR 15.408(n).

IV. Regulatory Requirements

A. Executive Order 12866 (Regulatory Planning and Review)

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866. The Office of Management and Budget has not reviewed it under that Order. This proposed rule is not a major rule under 5 U.S.C. 804.

B. Small Entities

Under the Regulatory Flexibility Act (RFA) (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. This rule does not duplicate, overlap, or conflict with other federal rules.

We do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the RFA because the rule is limited to cost reimbursement acquisitions in support of response to or recovery from declared disasters. During FY 2008, although there were 141 declared disasters, the Federal Procurement Data System (FPDS) indicates that only 73 cost-type contract actions were awarded by DHS in response to declared disasters. Only 31 separate contractors received these awards with 10 of these being small entities. We reviewed the NAICS (North American Industry Classification System) codes for these 10 small entities and found these small entities are not concentrated in any one industry and represent a relatively diverse cross section of the economy. For example, these small entities operate within NAICS code 541611 "Administrative Management and General Management Consulting Services," NAICS code 721211 "RV (Recreational Vehicle) Parks and Campgrounds," NAICS code 423210 "Furniture Merchant Wholesalers," and NAICS code 221122 "Electric Power Distribution." The number of actions and the number of impacted contractors are very small proportions of the contracts awarded by the federal government and of the number of federal contractors. It is not anticipated that the rule would significantly affect the total number of cost reimbursement acquisitions awarded to small entities.

When considering the economic impact of rulemakings, the RFA requires consideration of only the direct costs of a regulation on small entities that are required to comply with the regulation. Because the requirements of the clause promulgated by this rule includes requirements only for prime contractors, we believe the primary direct cost of this rule is the proposed requirement for submittal of information to DHS regarding the extent of subcontracting that is anticipated under a prime contract. We acknowledge that the limitation on subcontracting imposed by Section 692 of PKEMRA could have a distributional effect of shifting some of the work from subcontractors to prime contractors. However, distributional impacts of a rule across the economy are not considered an "economic impact" for the purposes of the RFA. For these reasons, DHS certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. DHS invites comments from small entities and other interested parties concerning the affected HSAR Parts 3015, 3016 and 3052. Such comments should be submitted separately and should cite 5 U.S.C. 601, *et seq.* (HSAR Case 2009–005). Commenters should note that section 692 of PKEMRA was explicit in describing what types of contracts are within the scope of this rule and the maximum amount of subcontracting that would be allowed in these circumstances once this rule becomes effective. Consequently, there are no alternatives to the requirements of this rule that accomplish the stated objectives of section 692 of PKEMRA.

C. Collection of Information

The Paperwork Reduction Act (Pub. L. 104–13) applies to this proposed rule because the proposed rule contains information collection requirements. Accordingly, the Department will submit a change request reflecting the amended estimate for the affected burdens concerning this proposed rule to the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

Annual Reporting Burden:

Public reporting burden for this collection of information is estimated to average 4.20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows:

Respondents: 219.

Responses per respondent: 1.67.

Total annual responses: 365.

Preparation hours per response: 4.2.

Total response burden hours: 1,533.

Request for Comments Regarding Paperwork Burden

Submit comments, including suggestions for reducing this burden, not later than August 9, 2010. *See* **ADDRESSES** above for information on how to submit comments. If you submit comments by mail, please submit them in an unbound format, no larger than 8½; by 11 inches, suitable for copying and electronic filing. You may submit comments either by mail or via the Internet as identified in the **ADDRESSES** section above; but to avoid duplication DHS requests that you submit comments and materials by only one method. If you would like DHS to acknowledge receipt of comments submitted by mail, please enclose a self-addressed, stamped postcard or envelope. DHS will consider all comments and material received during the comment period. We may change this proposed rule in view of comments submitted. Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the HSAR, and will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Requester may obtain a copy of the justification from the Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation Branch, *Attn:* Jeremy Olson, 245 Murray Drive, Bldg. 410 (RDS), Washington, DC 20528. Please cite OMB Control Numbers 1600–0005, Offeror submissions and 1600–0003, Contractor submissions, HSAR Case 2009–005, Limitations on Subcontracting in Emergency Acquisitions, in all correspondence.

List of Subjects in 48 CFR Parts 3015, 3016, and 3052

Government procurement.

Richard K. Gunderson,

Acting Chief Procurement Officer, Department of Homeland Security.

Accordingly, DHS proposes to amend (HSAR) 48 CFR parts 3015, 3016 and 3052 as follows:

1. The authority citation for 48 CFR parts 3015, 3016 and 3052 is revised to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 418b (a) and (b), 41 U.S.C. 414, 48 CFR part 1, subpart 1.3, and DHS Delegation Number 0700.

PART 3015—CONTRACTING BY NEGOTIATION

2. Add subpart 3015.4 consisting of section 3015.404–3 to read as follows:

Subpart 3015.4—Contract Pricing

3015.404–3 Subcontracting pricing considerations.

(d) For proposal submissions subject to limitations on subcontracting in accordance with (HSAR) 48 CFR 3016.370, Limitations on subcontracting in emergency acquisitions, the contracting officer shall require offerors to submit sufficient evidence to permit a determination that the offeror will or will not award subcontracts that exceed 65 percent of the cost (excluding indirect costs and fee) of the contract or the cost of any individual task or delivery order in accordance with (HSAR) 48 CFR 3016.370 and 3052.216–75.

PART 3016—TYPES OF CONTRACTS

3. Add subpart 3016.3 consisting of sections 3016.307 and 3016.370 to read as follows:

Subpart 3016.3—Cost-Reimbursement Contracts

3016.307 Contract clauses and solicitation provisions.

(a) The contracting officer shall insert the clause at (HSAR) 48 CFR 3052.216–75, Limitations on Subcontracting in Emergency Acquisitions, in solicitations, contracts, task orders, and delivery orders that are cost reimbursement and exceed the simplified acquisition threshold if the action is entered into to facilitate response to or recovery from:

(1) A major disaster or emergency declared by the President under Title IV or Title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121–5207) (*see http://www.fema.gov/news/disasters.fema#sev2* for a list of declarations);

(2) An uncontrolled fire or fire complex, threatening such destruction as would constitute a major disaster, and for which the Federal Emergency Management Agency has approved a fire management assistance declaration in accordance with regulatory criteria at 44 CFR 204.21 (*see http://www.fema.gov/news/disasters.fema#sev2* for a list of declarations); or

(3) An incident for which the National Operations Center (NOC), through the National Response Coordination Center (NRCC), coordinates the activation of the appropriate Emergency Support Functions and the Secretary of Homeland Security has designated a Federal Resource Coordinator (FRC) to manage Federal resource support.

(b) The contracting officer shall insert the provision at (HSAR) 48 CFR 3052.216–76, Proposal Information on Limitations on Subcontracting in Emergency Acquisitions, in solicitations for cost reimbursement contracts, task orders, and delivery orders expected to exceed the simplified acquisition threshold if the action will be entered into to facilitate response to or recovery from:

(1) A major disaster or emergency declared by the President under Title IV or Title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121–5207) (*see http://www.fema.gov/news/disasters.fema#sev2* for a list of declarations);

(2) An uncontrolled fire or fire complex, threatening such destruction as would constitute a major disaster, and for which the Federal Emergency Management Agency has approved a fire management assistance declaration in accordance with regulatory criteria at 44 CFR 204.21 (*see http://www.fema.gov/news/disasters.fema#sev2* for a list of declarations); or

(3) An incident for which the National Operations Center (NOC), through the National Response Coordination Center (NRCC), coordinates the activation of the appropriate Emergency Support Functions and the Secretary of Homeland Security has designated a Federal Resource Coordinator (FRC) to manage Federal resource support.

3016.370 Limitations on subcontracting in emergency acquisitions.

(a) A prime contractor under a cost reimbursement contract or a task or delivery order shall not subcontract more than 65 percent of the cost (exclusive of indirect costs and fee) of the action except as provided in paragraph (b) of this subsection, if the dollar value of the action is above the simplified acquisition threshold and if the action is entered into to facilitate response to or recovery from:

(1) A major disaster or emergency declared by the President under Title IV or Title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121–5207) (*see http://www.fema.gov/news/disasters.fema#sev2* for a list of declarations);

(2) An uncontrolled fire or fire complex, threatening such destruction as would constitute a major disaster, and for which the Federal Emergency Management Agency has approved a fire management assistance declaration in accordance with regulatory criteria at 44 CFR 204.21 (*see http://www.fema.gov/news/disasters.fema#sev2* for a list of declarations); or

(3) An incident for which the National Operations Center (NOC), through the National Response Coordination Center (NRCC), coordinates the activation of the appropriate Emergency Support Functions and the Secretary of Homeland Security has designated a Federal Resource Coordinator (FRC) to manage Federal resource support.

(b) The prohibition on subcontracting in paragraph (a) of this subsection does not apply if a determination is made that it is not feasible or practicable to apply it to a contract action or class of contract actions. The contracting officer shall prepare this determination and findings (D&F) using the format found in 48 CFR 3001.704. Review and approval of the D&F shall be one-level above the contracting officer unless a higher authority is established by the HCA.

(c) For purposes of establishing the percent of cost of work of the contract or task or deliver order, *see* 48 CFR 3052.216–75.

PART 3052—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Add sections 3052.216–75 and 3052.216–76 to subpart 3052.2 to read as follows:

3052.216–75 Limitations on subcontracting in emergency acquisitions.

As prescribed in (HSAR) 48 CFR 3016.307(a) insert the following clause in solicitations, orders and contracts:

LIMITATIONS ON SUBCONTRACTING IN EMERGENCY ACQUISITIONS

(TBD 2010)

Section 692 of the Department of Homeland Security Appropriations Act, Fiscal Year 2007, limits the use of subcontractors by prime contractors on certain cost reimbursement acquisitions entered into with the Department of Homeland Security and its Components.

(a) This acquisition is a cost reimbursement action subject to the limitations of section 692 for a requirement to facilitate the response to or recovery from:

(1) A major disaster or emergency declared by the President under Title IV or Title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121–5207) (*see http://www.fema.gov/news/disasters.fema#sev2* for a list of declarations);

(2) An uncontrolled fire or fire complex, threatening such destruction as would constitute a major disaster, and for which the Federal Emergency Management Agency has approved a fire management assistance declaration in accordance with regulatory criteria at 44 CFR 204.21 (*see http://www.fema.gov/news/disasters.fema#sev2* for a list of declarations); or

(3) An incident for which the National Operations Center (NOC), through the

National Response Coordination Center (NRCC), coordinates the activation of the appropriate Emergency Support Functions and the Secretary of Homeland Security has designated a Federal Resource Coordinator (FRC) to manage Federal resource support.

(b) The Contractor agrees that in performance of the contract, no more than 65 percent of the contract cost, excluding indirect costs incurred by the Contractor and fee paid to the Contractor, will be subcontracted. If this clause is included only in an individual task or delivery order or is made applicable only to certain task or delivery orders, this limit applies only to such task or delivery order(s) and not to the entire contract.

(c) For purposes of this clause, the percentage of cost shall be calculated by determining all costs exclusive of indirect costs and fee being incurred by the Contractor, and comparing this value to the total dollars the Contractor allocates to subcontractors.

(d) The Contractor shall notify the Contracting Officer in writing annually, on the anniversary date of contract award, the total cost (less indirect costs and fee) it has incurred for the previous 12-month period and the total subcontracted cost during the same period. If the percentage of costs incurred by its subcontractors exceeds 65 percent, the Contractor's notification shall include a description of the reason(s) the percentage of subcontracted cost exceeded 65 percent and a plan for becoming compliant with the requirements of this clause.

(e) If the Contractor expects at any time that compliance with these limits is not practicable or feasible, it shall submit a written request for waiver to the Contracting Officer with supporting rationale.

(f) The requirements of this clause remain in effect unless the Contracting Officer provides notification to the Contractor that compliance with these limits has been excused in accordance with (HSAR) 48 CFR 3016.370(b), or until the Contracting Officer provides notification that the requirements of this clause are no longer in force.

(g) In addition to any other remedy available to the government, the Contractor's ability to remain complaint with the terms of this clause may be included in past performance evaluations performed by Government personnel and considered by the Government when making future award decisions and failure to comply with its terms may result in disallowance of certain incurred costs.

(h) Nothing in this clause shall be construed as superseding or nullifying other terms or conditions of the contract including those associated with socioeconomic goals and consent to subcontract requirements.

(End of Clause)

3052.216–76 Proposal information on limitations on subcontracting in emergency acquisitions.

As prescribed in (HSAR) 48 CFR 3016.307(b) insert the following provision in solicitations:

PROPOSAL INFORMATION ON LIMITATIONS ON SUBCONTRACTING IN EMERGENCY ACQUISITIONS

(TBD 2010)

(a) The contract or order that is expected to be awarded based on this solicitation will include the clause at (HSAR) 48 CFR 3052.216–75, in which the Contractor agrees that in performance of that contract or order, no more than 65 percent of the cost, excluding indirect costs and fee, will be subcontracted.

(b) The proposal shall include acceptable evidence of the offeror's ability to satisfy this requirement. For purposes of this evidence, the percentage of cost shall be calculated by determining all costs, exclusive of indirect costs and fee, being proposed by the offeror and comparing this value to the total cost the offeror plans to subcontract. Upon contract award and during contract performance, this percentage of costs shall be calculated similarly based on costs incurred by the Contractor and amounts awarded to its subcontractors.

(c) If the offeror expects that compliance with these limits is not practicable or feasible, it shall include a written request for waiver in its offer along with supporting rationale. Offerors are hereby notified that an offer conditioned on acceptance of the waiver may not be considered for award, at the discretion of the Contracting Officer.

(End of Provision)

[FR Doc. 2010–13801 Filed 6–8–10; 8:45 am]

BILLING CODE 4910–9B–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2009–0077; 92220–1113–0000; ABC Code: C3]

RIN 1018–AW63

Endangered and Threatened Wildlife and Plants; Establishment of a Nonessential Experimental Population of Sonoran Pronghorn in Southwestern Arizona

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule: reopening of the public comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period on our February 4, 2010, proposed rule to reestablish the Sonoran pronghorn (*Antilocapra americana sonoriensis*) in southwestern Arizona. We proposed to reestablish the Sonoran pronghorn under section 10(j) of the Endangered Species Act of 1973, as amended (Act), and to classify that reestablished population as a nonessential experimental population (NEP). The proposed rule provided a plan for establishing the NEP and provided for allowable legal incidental taking of Sonoran pronghorn within the defined NEP area. A draft environmental assessment (EA) on this proposed action was also made available for comment. This action will provide all interested parties with an additional opportunity to submit comments on the proposed rule to reestablish Sonoran pronghorn into southwest Arizona and its accompanying draft EA. Information previously submitted need not be resubmitted as it has already been incorporated into the public record and will be fully considered in the final rule.

DATES: To allow us adequate time to consider and incorporate submitted information into our review, comments and information must be submitted on or before July 9, 2010.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, *Attn:* FWS–R2–ES–2009–0077; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Curtis McCasland, Refuge Manager, Cabeza Prieta National Wildlife Refuge, 1611 North Second Avenue, Ajo, AZ 85321; by telephone (520–387–6483) or by facsimile (520–387–5359). If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

On February 4, 2010, we published a proposed rule to reestablish the Sonoran pronghorn, a federally listed endangered mammal, into its historical habitat in King Valley, Kofa National Wildlife Refuge (Kofa NWR), in Yuma County, and to the Barry M. Goldwater Range—East (BMGR–E), in Maricopa County, in southwestern Arizona (75 FR 5732). At this time, we are reopening the public comment period for the proposed NEP and draft EA for a period of 30 days. For more information on the biology, habitat, and range of the Sonoran pronghorn, please refer to our previous proposed rule published in the **Federal Register** on February 4, 2010 (75 FR 5732).

Public Comments

We, the U.S. Fish and Wildlife Service (Service), published a proposed

rule to establish a nonessential experimental population (NEP) of Sonoran pronghorn (*Antilocapra americana sonoriensis*) in southwestern Arizona in the **Federal Register** on February 4, 2010 (75 FR 5732). We are continuing to ask for public comment during this reopened public comment period on the proposed rule and draft environmental assessment (EA). We want the final rule to be as effective as possible and the final EA on the proposed action to evaluate all potential issues associated with this action. We request information from the public, other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties relevant to the proposed rule and draft EA. Comments should be as specific as possible. If you submitted information previously on the proposed rule and draft EA, please do not resubmit it. This information has been incorporated into the public record and will be fully considered in the preparation of the final rule. We will consider information received from all interested parties.

To issue a final rule to implement this proposed action and to determine whether to prepare a finding of no significant impact or an environmental impact statement, we will take into consideration all comments and any additional information we receive. Such communications may lead to a final rule that differs from this proposal. All comments, including commenters' names and addresses, if provided to us, will become part of the supporting record.

You may submit your comments and materials concerning the proposed rule and draft EA by one of the methods listed in the **ADDRESSES** section. We will not accept comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section. Finally, we will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked, by the date specified in the **DATES** section. Comments must be submitted to *http://www.regulations.gov* before midnight (Eastern Time) on the date specified in the **DATES** section.

We will post your entire comment—including your personal identifying information—on *http://www.regulations.gov.* If your written comment includes your street address, phone number, or e-mail address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the Cabeza Prieta National Wildlife Refuge (see **FOR FURTHER INFORMATION CONTACT**).

Peer Review

In accordance with our joint policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of peer review is to ensure that our proposed NEP designation is based on scientifically sound data, assumptions, and analyses. We will invite these peer reviewers to comment during this public comment period on our specific assumptions and conclusions in this proposed NEP designation.

Authority

The authority for this action is section 10(j) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 26, 2010.

Thomas L. Strickland,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2010–13777 Filed 6–8–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2010–0035] [MO-92210-0-0008-B2]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List van Rossem's Gull-billed Tern as Endangered or Threatened.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90–day finding on a petition to list van Rossem's gull-billed tern (*Gelochelidon nilotica vanrossemi*) as an endangered or threatened species under the Endangered Species Act of 1973, as amended (Act), and to designate critical habitat. Based on our review, we find the petition provides substantial scientific or commercial information indicating that listing this subspecies may be warranted. Therefore, with the publication of this notice, we are initiating a review of the status of the subspecies to determine if listing is warranted. To ensure that this status review is comprehensive, we are requesting scientific and commercial data and other information regarding this subspecies. Based on the status review, we will issue a 12–month finding on the petition, which will address whether the petitioned action is warranted, as provided in section 4(b)(3)(B) of the Act.

DATES: To allow us adequate time to conduct this review, we request that we receive information on or before August 9, 2010. Please note that if you are using the *Federal eRulemaking Portal* (see **ADDRESSES** section, below) the deadline for submitting an electronic comment is 11:59 p.m. Eastern Daylight Savings Time on this date.

After August 9, 2010, you must submit information directly to the Field Office (see the **FOR FURTHER INFORMATION CONTACT** section below). Please note that we may not be able to address or incorporate information that we receive after the above requested date.

ADDRESSES: You may submit comments by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. In the box that reads "Enter Keyword or ID," enter the Docket number for this finding, which is FWS–R8–ES–2010–0035. Check the box that reads "Open for Comment/Submission," and then click the Search button. You should then see an icon that reads "Submit a Comment." Please ensure that you have found the correct rulemaking before submitting your comment.
- U.S. mail or hand-delivery: Public Comments Processing, Attn: FWS–R8–ES–2010–0035; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all information received on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see the Request for Information section below for more details).

FOR FURTHER INFORMATION CONTACT: Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Suite 101, Carlsbad, California 92011; by telephone at 760–431–9440; or by facsimile to 760–431–9624. If you use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Request for Information

When we make a finding that a petition presents substantial information indicating that listing a species may be warranted, we are required to promptly review the status of the species (status review). For the status review to be complete and based on the best available scientific and commercial information, we request information on van Rossem's gull-billed tern from governmental agencies, Native American Tribes, the scientific community, industry, and any other interested parties. We seek information on:

(1) The subspecies' biology, range, and population trends, including:

(a) Habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical and current range including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the subspecies or its habitat or both.

(2) The factors that are the basis for making a listing determination for a species under section 4(a) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), which are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence.

(3) Information relevant to the taxonomic status of this or related subspecies of gull-billed terns (particularly of the gull-billed terns nesting in western North America), or whether any population segments of gull-billed terns are discrete or significant under our policy (Policy Regarding the Recognition of Distinct Vertebrate Population Segments under the Endangered Species Act, 61 FR 4722; February 7, 1996).

(4) Information regarding the geographic structure of van Rossem's gull-billed tern populations and whether any portion or portions of the range may be considered significant, and why.

(5) The potential effects of climate change on this species and its habitat.

If, after the status review, we determine that listing the van Rossem's gull-billed tern is warranted, we will propose critical habitat (see definition in section 3(5)(A) of the Act), under section 4 of the Act, to the maximum extent prudent and determinable at the time we propose to list the species. Therefore, within the geographical range currently occupied by van Rossem's gull-billed tern, we request data and information on:

(1) What may constitute "physical or biological features essential to the conservation of the species,"

(2) Where these features are currently found, and

(3) Whether any of these features may require special management considerations or protection.

In addition, we request data and information on "specific areas outside the geographical area occupied by the species" that are "essential for the conservation of the species." Please provide specific comments and information as to what, if any, critical habitat you think we should propose for designation if the species is proposed for listing, and why such habitat meets the requirements of section 4 of the Act.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made "solely on the basis of the best scientific and commercial data available."

You may submit your information concerning this status review by one of the methods listed in the **ADDRESSES** section. If you submit information via *http://www.regulations.gov*, your entire submission—including any personal identifying information—will be posted on the website. If you submit a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov*.

Information and supporting documentation that we received and used in preparing this finding, will be available for you to review at *http://www.regulations.gov*, or you may make an appointment during normal business hours at the U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding promptly in the **Federal Register**.

Our standard for substantial scientific or commercial information within the Code of Federal Regulations (CFR) with regard to a 90–day petition finding is "that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted" (50 CFR 424.14(b)). If we find that substantial scientific or commercial information was presented, we are required to promptly commence a review the status of the species, which is subsequently summarized in our 12–month finding.

Petition History

On June 8, 2009, we received a petition from the Center for Biological Diversity requesting that we list the "western" or "van Rossem's" subspecies of gull-billed tern throughout its range as endangered or threatened under the Act, and that we designate critical habitat concurrent with listing (CBD 2009, pp. 1–40). The petition clearly identified itself as such and included the requisite identification information for the petitioner, as required by 50 CFR 424.14(a). In an August 18, 2009, letter to the petitioner, we responded that we had reviewed the information presented in the petition and determined that issuing an emergency regulation listing the subspecies under section 4(b)(7) of the Act was not warranted. This finding addresses the petition.

Previous Federal Actions

We included van Rossem's gull-billed tern as a Category 2 candidate in our November 15, 1994, notice of candidate review (59 FR 58982). Category 2 taxa were defined as those taxa for which information in the possession of the Service, at that time, indicated that proposing to list as endangered or threatened was possibly appropriate but for which persuasive data on biological

vulnerability and threats were not available to support proposed rules. In the February 28, 1996, notice of candidate review (61 FR 7596), we announced our decision to discontinue recognition of Category 2 candidates, including van Rossem's gull-billed tern. This decision was made final on December 5, 1996 (61 FR 64481). Since that time, van Rossem's gull-billed tern has not been treated as a candidate for Federal listing under the Act.

In 2002 and 2008, pursuant to the Fish and Wildlife Conservation Act of 1980, as amended (16 U.S.C. 2901 *et seq.*), our Division of Migratory Bird Management included the gull-billed tern (the species as a whole) in the list of Birds of Conservation Concern (USFWS 2002, pp. 1–99; USFWS 2008, pp. 1–87). The species was included as a Bird of Conservation Concern both nationally and in certain specific Bird Conservation Regions, including the U.S. portions of Bird Conservation Regions 32 (Coastal California) and 33 (Sonoran and Mojave Deserts) (USFWS 2008, pp. 48 and 49). The gull-billed tern that occurs in Bird Conservation Regions 32 and 33 is *Gelochelidon nilotica vanrossemi*.

Species Information

The van Rossem's gull-billed tern is a medium-sized seabird. It is one of two subspecies of gull-billed tern in North America (Molina 2008, p. 188) and six worldwide (Parnell *et al.* 1995, p. 3). Scientists with the U.S. Geological Survey are finalizing a study that may help identify additional information regarding the eastern and western North American subspecies; we anticipate looking into this further in the status review. Bancroft (1929, pp. 283–286) described *Gelochelidon nilotica vanrossemi* from specimens collected at the Salton Sea, Imperial County, California. Van Rossem's gull-billed tern differs from the nominate subspecies of the Old World (*G. n. nilotica*) by its shorter tail and bill shape (less angular gonys), and from the subspecies of eastern North America (*G. n. aranea*) by its "decidedly larger size" (Bancroft 1929, p. 284).

Van Rossem's gull-billed tern is migratory. During the spring and summer, it nests locally along the Pacific coast of Mexico including the Gulf of California. An additional coastal nest colony is located in San Diego Bay, San Diego County, California. Nest colonies are also located at inland localities in northeastern Baja California, Mexico, and at the Salton Sea, Imperial County, California. The Salton Sea and San Diego Bay are the only nesting areas for the subspecies in the United States (Molina and Erwin 2006, p. 273). The extent of the winter range for the subspecies is not known but likely includes the Pacific coast of Mexico, Central America, and possibly northwestern South America (Molina and Erwin 2006, p. 272).

Gull-billed terns, including van Rossem's gull-billed terns, nest in colonies of 20 to 50 pairs, although numbers may vary (Parnell *et al.* 1995, p. 9). Nests consist of shallow scrapes with simple adornments (such as rocks, shells, fish bones) (Parnell *et al.* 1995, p. 10). Nesting habitat for van Rossem's gull-billed terns consists of low, open areas on natural and artificial beaches, islands, and levees with no or sparse vegetation (Parnell *et al.* 1995, pp. 5 and 10; Palacios and Mellink 2007, p. 215). At San Diego Bay and the Salton Sea, van Rossem's gull-billed terns typically lay 2 to 3 eggs per clutch (Parnell *et al.* 1995, p. 12). The egg incubation period is 22 to 23 days, and the young fledge after 28 to 35 days (Parnell *et al.* 1995, p. 11). Fledglings remain dependent upon their parents for at least 4 weeks after fledging, and probably longer (Parnell *et al.* 1995, p. 12).

Like other terns, gull-billed terns (including van Rossem's gull-billed tern) are predators, but they differ from most other tern species in how they forage and in the types of prey they consume. Unlike many other tern species that eat only fish caught by shallow dives into water, gull-billed terns forage on a variety of prey items found in different habitat types: (1) Gull-billed terns in flight capture flying insects in the air (Parnell *et al.* 1995, p. 5); (2) they swoop down and snatch up terrestrial prey (such as crabs, lizards, insects, or chicks of other birds) and aquatic prey (such as small fish) near the water's surface (Parnell *et al.* 1995, p. 5; Molina and Marschalek 2003, p. i); and (3) they land to pick up prey items (Parnell *et al.* 1995, p. 5). Van Rossem's gull-billed tern is predominantly a coastal bird, but it does occur at certain inland sites with aquatic resources (Parnell *et al.* 1995, p. 5; Molina and Erwin 2006, p. 284). The foraging habitat of van Rossem's gull-billed terns consists of "open mudflats in tidal estuaries, river margins, beaches, salt marshes, freshwater marshes, aquacultural impoundments (such as shrimp ponds), and a variety of upland habitats including open scrub, pasturelands and irrigated agricultural fields and associated drains," and the airspace over such areas (Molina and Erwin 2006, p. 284; Parnell *et al.* 1995, pp. 4–5).

Evaluation of Information for This Finding

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

In making this 90–day finding, we first evaluated information presented in the petition and other information available in our files on the taxonomic status of the subspecies petitioned. We then evaluated whether information regarding threats to the van Rossem's gull-billed tern, as presented in the petition and other information available in our files, is substantial, thereby indicating that the petitioned action may be warranted. Our evaluation of this information is presented below.

The petitioner requests that the Service list *Gelochelidon nilotica vanrossemi* (van Rossem's gull-billed tern) as endangered or threatened (CBD 2009, p. 1). The petitioner does not specifically address a taxonomic or geographical scope at a level lower than subspecies or the subspecies' entire range; that is, the petitioner does not address any potential distinct population segments, nor does the petitioner identify any portions of the subspecies' range as significant. Therefore, we evaluated the petition as a petition to list the subspecies as endangered or threatened throughout its range.

The petition states that the validity of the subspecies has not been questioned (CBD 2009, p. 4). However, information in the scientific literature shows that some authors have questioned the validity (distinctiveness) of van Rossem's gull-billed tern. These include: (1) Grinnell and Miller (1944, p. 172), who, based on conflicting information available at the time, stated that they "do not recognize a western race" (i.e., subspecies); (2) Unitt (2004, p. 249), who questioned the taxon's distinctiveness based on measurements

presented in Parnell *et al.* (1995, p. 3); and (3) Pyle (2008, p. 706), who considered the morphological differences of the western North American birds to be "too slight for subspecific recognition." In contrast, other authors did not question the distinctiveness of the *vanrossemi* subspecies. For example, the American Ornithologists' Union (AOU) Committee on Classification and Nomenclature (AOU Committee), the long-standing scientific body responsible for standardizing North American avian taxonomy, recognized the *vanrossemi* subspecies in its 1957 (fifth) edition of its check-list of North American birds, which was the last time the AOU Committee explicitly addressed subspecies (AOU 1957, p. 233). More recently, Patten *et al.* (2003, p. 188), who critically reviewed the taxonomy of subspecies presented in their book on the birds of the Salton Sea region (Patten *et al.* 2003, p. 71), also recognized the subspecies. Thus, the scientific literature readily available in our files is not consistent regarding the distinctiveness of van Rossem's gull-billed tern. We will address van Rossem's gull-billed tern for the purposes of evaluating the petitioned action; however, to ensure that the status review is comprehensive, we are soliciting scientific and commercial information regarding the distinctiveness and taxonomic status of van Rossem's gull-billed tern especially compared to those gull-billed terns that nest and winter along the west coast of North America.

A. The Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range

Information Provided in the Petition

The petitioner asserts that van Rossem's gull-billed tern is threatened by loss of nesting and foraging habitat (CBD 2009, p. 8). In the San Diego Bay area, the petitioner notes that nesting habitat used by van Rossem's gull-billed tern lies predominantly within the boundaries of the San Diego Bay National Wildlife Refuge (Refuge), and thereby is protected from development. However, its foraging habitat is found outside the Refuge boundaries and is subject to impacts from recreation and military training activities (CBD 2009, p. 8). The petitioner claims that tern nesting and foraging habitat at the Salton Sea is threatened by declining water levels because of reduction of inflows. The petitioner notes inflows to the Salton Sea have declined due to the reduced availability of irrigation water; less irrigation water is available from the Colorado River, and a portion of what water is available is being transferred from the Imperial Valley agricultural areas to the San Diego region for municipal use. The petitioner claims the amount of nesting habitat is reduced because the reduced inflow into the Salton Sea is causing former nesting islands to become part of the mainland; this allows access by land predators and increased wind-blown dust (CBD 2009, p. 9). Also, foraging habitat for the tern, the petitioner asserts, is threatened at the Salton Sea by degradation of water quality and a reduction in the amount of irrigated agricultural areas (CBD 2009, p. 9). The petitioner also asserts the effects of global climate change, including sea-level rise, shoreline erosion, and changes in vegetation, threatens the van Rossem's gull-billed tern's nesting habitat, foraging habitat, or both (CBD 2009, p. 10). Finally, the petitioner asserts nesting and foraging habitat in Mexico for this subspecies is threatened by commercial aquaculture development, tourism-related development, development of evaporation ponds for commercial salt production (saltworks), flooding from beach erosion, and fluctuating water levels in water impoundments (CBD 2009, pp. 9 and 10).

Evaluation of Information Provided in the Petition and Available in Service Files

The petitioner cited several publications to support assertions made in the petition; however, the petitioner did not include reference information for some citations (such as Schwabe *et al.* 2008). We reviewed cited and referenced publications that were readily available in our files, including Terp and Pavelka (1999, pp. 1–23), Molina and Erwin (2006, pp. 271–295), USFWS (2006, pp. 1–1 through 8–2), and Palacios and Mellink (2007, pp. 214–222). In general, we find substantive information suggesting that the assertions made by the petitioner are accurate. In particular, Molina and Erwin (2006, pp. 284–287) and Palacios and Mellink (2007, pp. 215–221) identified destruction of nesting and foraging habitat from coastal development as a threat to the subspecies.

Destruction and modification of nesting and foraging habitat may affect the subspecies by reducing the amount of available nesting and foraging habitats. Such reductions in nesting habitat may force van Rossem's gull-billed terns to nest in sub-optimal habitat subject to disturbance or other threats, which may subsequently affect the subspecies' reproductive success (Molina and Erwin 2006, p. 285). Also, van Rossem's gull-billed terns need foraging habitat close to nesting habitat so that adults can efficiently feed their young (Molina and Erwin 2006, p. 284). Destruction and modification of foraging habitat in the nesting range may further reduce the van Rossem's gull-billed terns' reproductive success. If reproductive rates are reduced enough, the overall population of the subspecies may be reduced. Additionally, the range of the subspecies may be curtailed by habitat destruction.

The petitioner provided information, which is corroborated by information readily available in our files, that destruction and modification of van Rossem's gull-billed tern habitat has occurred and is likely to continue in the future. Therefore, we find the petition and readily available information in our files presents substantial information indicating that the present or threatened destruction, modification, or curtailment of nesting or foraging habitat may be a significant threat to the van Rossem's gull-billed tern.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Information Provided in the Petition

The petitioner, citing information in the scientific literature (Gonzalez-Bernal *et al.* 2003, and Palacios and Mellink 2007), asserts that van Rossem's gull-billed terns are threatened by people collecting eggs, chicks, or both at certain nest sites in Mexico (CBD 2009, p. 12).

Evaluation of Information Provided in the Petition and Available in Service Files

We reviewed Gonzalez-Bernal *et al.* (2003, pp. 175–177) and Palacios and Mellink (2007, pp. 214–222). Both indicate the eggs and young of colonial waterbirds, potentially including van Rossem's gull-billed terns, have been utilized for commercial or subsistence purposes (Gonzalez-Bernal *et al.* 2003, p. 177; Palacios and Mellink 2007, pp. 216). This use of eggs and young results in the death of embryos and nestlings, which, depending on the amount of this use, could significantly reduce the reproductive success of nesting colonial waterbirds. If such use affects van Rossem's gull-billed terns and if utilization rates are high enough, the status of the subspecies may be affected. While it is unclear whether or to what extent this threat affects the van Rossem's gull-billed tern, we find the petition and readily available

information in our files presents substantial information indicating that overutilization of van Rossem's gull-billed tern eggs and nestlings may be a significant threat to the subspecies.

C. Disease or Predation

Information Provided in the Petition

Disease—The petitioner notes that there is "little to no existing literature on the prevalence of disease in [van Rossem's] gull-billed terns" (CBD 2009, p. 12). However, the petitioner suggests that West Nile virus is a possible threat to van Rossem's gull-billed tern (CBD 2009, p. 12). Additionally, the petitioner implies that van Rossem's gull-billed tern may be susceptible to disease by noting that a number of other bird species that may be found near van Rossem's gull-billed tern's nesting and foraging areas in southern California suffered illness and mortality during a 2004 outbreak of an unknown illness (although the petitioner notes that it may have been a result of contamination) (CBD 2009, p. 21).

Predation—The petitioner asserts that predation is a threat to van Rossem's gull-billed tern throughout its range, noting a number of potential and documented predator species (CBD 2009, pp. 10–12). The petitioner cites several sources from the scientific literature documenting predation on the subspecies.

Evaluation of Information Provided in the Petition and Available in Service Files

Disease—Diseases occur naturally in wildlife populations, but the occurrence of a disease within the range of a species does not necessarily mean that it is deleterious to that species. However, if one or more diseases are virulent enough, the status of the subspecies will be affected. We reviewed the petition and information in our files and did not find substantial information to indicate that disease may be a threat to the subspecies; however, we will investigate the potential impact of disease, including West Nile virus, during the status review for the subspecies.

Predation—The petitioner cites several published and unpublished documents to support the assertions of predation as a potential threat; however, the petitioner did not include reference information for some citations (such as Blus and Stafford 1980, Eyler *et al.* 1999, and O'Connell and Beck 2003). We reviewed the publications that were readily available in our files, including Parnell *et al.* (1995, pp. 8 and 13), Molina and Erwin (2006, pp. 285–286), and Palacios and Mellink (2007, pp. 216–219). Based on the review of these sources, we found information suggesting that the assertions made by the petitioner regarding the occurrences of predation are generally accurate. Although not articulated by the petitioner, we note that these sources indicate that predation is primarily of eggs or young at nest sites (or "nest predation"), although the petitioner also alluded to predation of adult terns (CBD 2009, pp. 11–12).

Predators kill prey for food. Nearly all species are subject to predation under natural conditions. A high level of nest predation at a van Rossem's gull-billed tern nest colony could significantly reduce the reproductive success of the subspecies at that site. Also, high levels of predation on adult gull-billed tern's could significantly affect the population of the subspecies as a whole. If predation rates are high enough, the status of the subspecies may be affected. We reviewed the petition and information in our files and did not find substantial information to indicate that predation may be a threat to the subspecies; however, we will further evaluate the potential effects of predation on the status of the van Rossem's gull-billed tern as we conduct our status review.

D. The Inadequacy of Existing Regulatory Mechanisms

Information Provided in the Petition

The petitioner identifies three existing Federal regulatory mechanisms in the United States that may provide some conservation benefit for van Rossem's gull-billed tern. These are: (1) The Migratory Bird Treaty Act (16 U.S.C. 703–712), (2) the Fish and Wildlife Conservation Act (16 U.S.C. 2901 *et seq.*), and (3) Executive Order 13186. The petitioner also identifies one existing State regulatory mechanism (the State of California's list of Bird Species of Special Concern) and one existing regulatory mechanism in Mexico (the 1936 international treaty between the United States and Mexico for the protection of Migratory Birds and Game Mammals). The petitioner asserts that none of these existing regulatory mechanisms are adequate to conserve van Rossem's gull-billed tern (CBD 2009, pp. 22–24). To illustrate the asserted inadequacy, the petitioner includes several examples of past management actions under Service-issued permits that resulted in the death of van Rossem's gull-billed terns. These management actions were for protection of endangered and threatened species and to reduce the risk of bird airstrike hazards at an airport runway (CBD 2009, p. 22). The petitioner also notes there have been proposals for additional actions to manage gull-billed terns.

Evaluation of Information Provided in the Petition and Available in Service Files

The petitioner cites several published and unpublished sources, but most of the references readily available in our files are of the regulatory mechanisms themselves, and few readily available references evaluate whether regulatory mechanisms to protect van Rossem's gull-billed tern are adequate. However, we note that Molina 2008 (p. 190) corroborates the petitioner's assertion that lethal control has been used on van Rossem's gull-billed terns in response to a potential airstrike hazard. Additionally, the Service has proposed to manage van Rossem's gull-billed tern populations that prey on other federally listed species on San Diego Bay National Wildlife Refuge, which is evidence that supports the petitioner's assertion that such examples of management may continue into the future.

In general, application of Factor D, assumes two pre-existing conditions: (1) One or more threats exist that are severe enough to affect the status of the species, such existing threats would fall under at least one of the other listing factors (Factors A, B, C, or E); and (2) one or more regulatory mechanisms exist that address in some way the aforementioned threat or threats. Existing regulatory mechanisms can be inadequate, and thus considered to be a "threat" to the species under Factor D in two ways: (1) The regulatory mechanism is inherently inadequate to reduce the severity of the existing threat or threats to a point that such threats do not affect the status of the species; or (2) the regulatory mechanism is not inherently inadequate to address the threat or threats, but enforcement of that regulatory mechanism is lacking or wanting, thus making the existing regulatory mechanism inadequate to reduce the severity of the existing threat or threats to a point that those threats affect the status of the species.

The petitioner asserts that threats under Factors A, B, C, and E are affecting the status of the species; we have found substantial evidence to support the assertions for Factors A, B and E (see our discussion under those factors). The petitioner has identified that regulatory mechanisms exist and asserts that such mechanisms are inadequate, either because of inherent flaw in the mechanism with respect to the threat or because of inadequate enforcement. As we noted above,

instead of providing an analysis of how the regulatory mechanisms are inadequate, the petitioner supports the assertions by providing examples, which we find are accurate, at least to some extent. We believe the provided examples are enough to lead a reasonable person to conclude that existing regulatory mechanisms may be inadequate. Therefore, we find the petition and readily available information in our files presents substantial information indicating that the inadequacy of existing regulatory mechanisms to protect the van Rossem's gull-billed tern may be a significant threat to the subspecies.

E. Other Natural or Manmade Factors Affecting the Species' Continued Existence

Information Provided in the Petition

The petitioner, citing a variety of published and unpublished sources and supplying several examples, asserts a number of natural and manmade factors affect the continued existence of van Rossem's gull-billed tern. Below, we summarize and group the petitioner's claims into the following categories:

- The effects of other colonial-nesting bird species on van Rossem's gull-billed terns at nest sites, including competition for nesting space, disturbance of adults or young, or harm of eggs or chicks (CBD 2009, pp. 11 and 19) of the van Rossem's gull-billed tern.
- Disturbance of van Rossem's gull-billed terns at nest sites caused by the actions of humans, livestock, or dogs (CBD 2009, p. 13).
- Intentional killing or other take (as defined under section 3 of the Act) of individual van Rossem's gull-billed tern adults, young, or eggs through legal and illegal actions, or through specific management actions in the United States and Mexico (CBD 2009, pp. 15–19).
- Deleterious effects resulting from exposure to pesticides, heavy metals, or other natural or anthropogenic contaminants (CBD 2009, pp. 20–21).
- Fluctuations in food availability resulting from natural or anthropogenic changes in the environment (CBD 2009, p. 20).
- Increased vulnerability to extinction and other effects associated with small population size (CBD 2009, p. 13).
- Effects associated with natural and anthropogenic variations in weather and climate, including anticipated effects associated with global climate change and subsequent changes in sea level and other sources of coastal flooding (CBD 2009, pp. 12 and 21).

Evaluation of Information Provided in the Petition and Available in Service Files

We reviewed the information cited and referenced in the petition and other information that was readily available in our files. The effects of other colonial-nesting bird species as a potential threat is supported by information in Molina (2004, p. 98), while disturbance by humans and other animals as a potential threat is supported by Parnell *et al.* (1995, p. 13), Molina and Erwin (2006, p. 285), and Palacios and Mellink (2007, p. 219). Intentional killing as a potential threat is supported by Molina and Erwin (2006, p. 287) and Molina (2008, p. 190). Contaminants as a potential threat is supported by Parnell *et al.* (1995, p. 13) and Molina and Erwin (2006, p. 287), while potential threats acting on the small population size is supported by Palacios and Mellink (2007, p. 221). Additionally, Parnell *et al.* (1995, p. 13) and Palacios and Mellink (2007, p. 216) include information on changes in climate, weather, and flooding as potential threats. Neither the petition nor readily available information in our files yielded substantial information indicating that the effects of fluctuations in food availability may be a significant threat to the van Rossem's gull-billed tern.

The individual threats under this factor are wide-ranging and may affect the subspecies in a number of ways. For example, such threats may significantly reduce the reproductive success of the van Rossem's gull-billed tern (such as trampling of van Rossom's gull-billed tern chicks by other waterbird species), result in the death of individual adults (such as lethal control of van Rossem's gull-billed terns in an effort to protect other listed species), or affect populations (such as contaminant build-up in the food chain). Additionally, as cited in the petition, the San Diego National Wildlife Refuge proposes to addle up to 43 percent of the van Rossem's gull-billed tern egg clutches at the San Diego Bay to protect listed species (Service 2009, p. 1). Although this activity has not been implemented by the Refuge, if such action occurs in the future, it would likely impact the population of this subspecies. If these threats, either individually or collectively, are severe enough, the status of the subspecies may be significantly affected. We have evaluated the petition and readily available information in our files and find substantial information indicating that the effects of one or more of the following—other colonial-nesting bird species, disturbance by humans and other animals, intentional killing, contaminants, threats linked to small population size, or potential changes in climate, weather, and flooding regimes—may significantly affect the status of van Rossem's gull-billed tern.

Finding

On the basis of our evaluation of the information presented under section 4(b)(3)(A) of the Act, we have determined that the petition presents substantial scientific or commercial information indicating that listing the van Rossem's gull-billed tern may be warranted. This finding is based on information provided under Factor A (present or threatened destruction, modification, or curtailment of the subspecies' habitat or range), Factor B (overutilization for commercial, recreational, scientific, or educational purposes), Factor D (the inadequacy of existing regulatory mechanisms), and Factor E (other natural or manmade factors affecting the subspecies' continued existence). Because we have found that the petition presents substantial information indicating that the van Rossem's gull-billed tern may be at risk of extinction now or in the foreseeable future and therefore listing under the Act may be warranted, we are initiating a status review to determine whether listing the van Rossem's gull-billed tern under the Act is warranted.

The "substantial information" standard for a 90–day finding differs from the Act's "best scientific and commercial data" standard that applies to a status review to determine whether a petitioned action is warranted. A 90–day finding does not constitute a status review under the Act. In a 12–month finding, we will determine whether a petitioned action is warranted after we have completed a thorough status review of the species, which is conducted following a substantial 90–day finding. Because the Act's standards for 90–day and 12–month findings are different, as described above, a substantial 90–day finding does not mean that the 12–month finding will result in a warranted finding.

References Cited

A complete list of references cited is available on the Internet at *http://www.regulations.gov* and upon request from the Carlsbad Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Author

The primary authors of this notice are staff members of the Carlsbad Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 26, 2010

Daniel M. Ashe,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2010–13779 Filed 6–8–10; 8:45 am]

BILLING CODE 4310–55–S

Notices

Federal Register
Vol. 75, No. 110
Wednesday, June 9, 2010

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 3, 2010.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Housing Service

Title: 7 CFR 1980–D, Rural Housing Loans.

OMB Control Number: 0575–0078.

Summary of Collection: The Rural Housing Service (RHS) is a credit agency for Rural Development for the U.S. Department of Agriculture. Section 517(d) of Title V of the Housing Act of 1949, as amended, (Act) provides the authority for the Secretary of Agriculture to issue loan guarantees for the acquisition of new or existing dwellings and related facilities to provide decent, safe, and sanitary living conditions and other structures in rural areas. The Act also authorizes the Secretary to pay the holder of a guaranteed loan the difference between the rate of interest paid by the borrower and the market rate of interest.

Need and Use of the Information: Information collected is used to determine if borrowers qualify for all assistance. Eligibility for this program includes very low, low, and moderate-income families or persons whose income does not exceed 115 percent of the median income for the area. The information requested by RHS includes borrower financial information such as household income, assets and liabilities, and monthly expenses. Information requested on lenders is required to ensure lenders are eligible to participate in the GRH program and are in compliance with OMB Circular A–129. If the information collected was less frequent or not at all, the agency could not effectively monitor lenders and assess the program.

Description of Respondents: Individuals or households; Business or other for-profit.

Number of Respondents: 137,512.

Frequency of Responses: Reporting: Monthly; On occasion.

Total Burden Hours: 753,193.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2010–13797 Filed 6–8–10; 8:45 am]

BILLING CODE 3410–XT–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Notice of the Specialty Crop Committee's Stakeholder Listening Session

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of stakeholder listening session.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App 2, the United States Department of Agriculture announces a stakeholder listening session of the Specialty Crop Committee, under the auspices of the National Agricultural Research, Extension, Education, and Economics Advisory Board (NAREEE).

DATES: The Specialty Crop Committee will hold the stakeholder listening session on June 9, 2010 from 9 a.m.–3 p.m.

ADDRESSES: The stakeholder listening session of the Specialty Crop Committee will take place at the Le Rivage Hotel, 4800 Riverside Boulevard, Sacramento, California 95822.

The public may file written comments before or up to two weeks after the listening session with the contact person identified in this notice at: The National Agricultural Research, Extension, Education, and Economics Advisory Board Office, U.S. Department of Agriculture, Room 344–A, Jamie L. Whitten Building, 1400 Independence Avenue, SW., Washington, DC 20250–2255.

FOR FURTHER INFORMATION CONTACT: David Kelly, Acting Executive Director, National Agricultural Research, Extension, Education, and Economics Advisory Board; *telephone:* (202) 720–4421; *fax:* (202) 720–6199; or *e-mail: David.kelly@ars.usda.gov.*

SUPPLEMENTARY INFORMATION: The Specialty Crop Committee was established in accordance with the Specialty Crops Competitiveness Act of 2004 under Title III, Section 303 of Public Law 108–465, as amended under the Food, Conservation, and Energy Act of 2008, under Title VII, Section 7103 of Public Law 110–246. This Committee is a permanent committee of the National Agricultural Research Extension, Education, and Economics Advisory Board. The Committee's charge is to

study the scope and effectiveness of research, extension, and economics programs affecting the specialty crop industry. The congressional legislation defines "specialty crops" as fruits, vegetables, tree nuts, dried fruits and nursery crops (including floriculture). In order to carry out its responsibilities effectively, the Committee is holding a stakeholder listening session. The listening session will elicit stakeholder input from industry and state representatives, researchers and educators, national organizations and institutions, local producers, and other groups about topics of relevance to research, extension or economics programs on which the Specialty Crop Committee is charged to report through the Board to the Secretary of Agriculture and Congress. The list of specific topics of interest is available on the Committee charge on the NAREEE Web site (*http://nareeeab.ree.usda.gov*). In addition, the Committee seeks input on the Specialty Crop Research Initiative priorities and program administration, as well as its interaction with any research undertaken by the state administered Specialty Crop Block Grant Program funded through the USDA. Several panel sessions will be organized to stimulate discussion, each relating to one or more specific issues delineated in the Committee's charge. Each panel will be followed with questions by Committee members and opportunity for brief presentations and general discussion from the floor. An open session for further brief presentations will be also be scheduled. Succinct written comments by attendees and other interested stakeholders will be welcomed as additional public input before and up to two weeks following the listening sessions. All statements will become part of the official public record of the Board's Specialty Crop Committee.

In order to encourage input from a wide array of interested parties and stakeholders from diverse regions of the country, the Committee will host an additional listening session focused on the same topics. This session will be held in Sacramento, CA on June 10, 2010. Details regarding this meeting will be announced in the near future.

Done at Washington, DC, June 2, 2010.

Ann M. Bartuska,

Acting Under Secretary, Research, Education, and Economics.

[FR Doc. 2010–13798 Filed 6–8–10; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Notice of Solicitation for Members of the National Agricultural Research, Extension, Education and Economics Advisory Board

AGENCY: Research, Education and Economics, USDA.

ACTION: Solicitation for membership.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App., the United States Department of Agriculture announces solicitation for nominations to fill 9 vacancies on the National Agricultural Research, Extension, Education and Economics Advisory Board.

DATES: Deadline for Advisory Board member nominations is July 9, 2010.

ADDRESSES: The nominee's name, resume, completed Form AD–755, and any letters of support must be sent to the U.S. Department of Agriculture, National Research, Extension, Education, and Economics Advisory Board Office, 1400 Independence Avenue, SW., Room 321–A, Whitten Building, Washington, DC 20250–0321.

FOR FURTHER INFORMATION CONTACT: David Kelly, Acting Executive Director, National Agricultural Research, Extension, Education and Economics Advisory Board, 1400 Independence Avenue, SW., Room 321–A, Whitten Building, Washington, DC 20250–0321, *telephone:* 202–720–4421; *fax:* 202–720–6199; *e-mail: david.kelly@ars.usda.gov.*

SUPPLEMENTARY INFORMATION: Section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123) was amended by the Food, Energy and Conservation Act of 2008 by deleting six members of the National Agricultural Research, Extension, Education and Economics Advisory Board, to total 25 members. Since the inception of the Advisory Board by congressional legislation in 1996, each member has represented a specific category related to farming or ranching, food production and processing, forestry research, crop and animal science, land-grant institutions, non-land grant college or university with a historic commitment to research in the food and agricultural sciences, food retailing and marketing, rural economic development, and natural resource and consumer interest groups, among many others. The Board was first appointed by the Secretary of Agriculture in September 1996 and one-third of its members were appointed for one, two, and three-year terms, respectively to allow for approximately one-third of the Board to change each year. The terms for 8 members who represent specific categories will expire September 30, 2010. Nominations for these and other vacant categories are sought. All nominees will be carefully reviewed for their expertise, leadership, and relevance to a category. Appointments will be made for two- or three-year terms to maintain the approximate one-third change in membership each year dictated by the original legislation.

The 9 slots to be filled are:

Category F. National Food Animal Science Society
Category G. National Crop, Soil, Agronomy, Horticulture, or Weed Science Society
Category K. 1862 Land-Grant Colleges and Universities
Category L. 1890 Land-Grant Colleges and Universities
Category P. American Colleges of Veterinary Medicine
Category T. Rural Economic Development
Category U. National Consumer Interest Group
Category V. National Forestry Group
Category W. National Conservation or Natural Resource Groups

Nominations are being solicited from organizations, associations, societies, councils, federations, groups, and companies that represent a wide variety of food and agricultural interests throughout the country. Nominations for one individual who fits several of the categories listed above *or* for more than one person who fits one category will be accepted. In your nomination letter, please indicate the specific membership category for each nominee. Each nominee must fill out, sign, and return a form AD–755, "Advisory Committee Membership Background Information" (which can be obtained from the contact person below or may be printed out from the following Web site: *http://www.ree.usda.gov/nareeeab/downloads/forms/AD–755.pdf*). All nominees will be vetted before selection.

Nominations are open to all individuals without regard to race, color, religion, sex, national origin, age, mental or physical handicap, marital status, or sexual orientation. To ensure that recommendations of the Advisory Board take into account the needs of the diverse groups served by the Department, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Appointments to the National Agricultural Research, Extension, Education and Economics Advisory Board will be made by the Secretary of Agriculture.

Done at Washington, DC, June 2, 2010.

Ann M. Bartuska,

Acting Under Secretary, Research, Education, and Economics.

[FR Doc. 2010–13799 Filed 6–8–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Farm Service Agency

Information Collection; Application for Payment of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent

AGENCY: Commodity Credit Corporation and Farm Service Agency, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Commodity Credit Corporation (CCC) and the Farm Service Agency (FSA) are requesting comments from all interested individuals and organizations on an extension of a currently approved information collection. The CCC and FSA are using the collected information to determine whether representatives or survivors of a producer are entitled to receive payments earned by a producer who dies, disappears, or is declared incompetent before receiving payments or other disbursements.

DATES: Comments on this notice must be received on or before August 9, 2010 to be assured consideration.

ADDRESSES: We invite you to submit comments on this notice. In your comments, include date, volume, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *Mail:* Mike Sienkiewicz, Agricultural Program Specialist, USDA, FSA, STOP 0572, 1400 Independence Avenue, SW., Washington, DC 20250–0572.
- *E-mail: mike.sienkiewicz@wdc.usda.gov.*
- *Fax:* (202) 720–0051.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting Mike Sienkiewicz at the above addresses.

FOR FURTHER INFORMATION CONTACT: Mike Sienkiewicz, Agricultural Program Specialist, (202) 720–8959.

SUPPLEMENTARY INFORMATION:

Title: Application for Payment of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent.

OMB Control Number: 0560–0026.

Expiration Date: November 30, 2010.

Type of Request: Extension of a currently approved information collection.

Abstract: Persons desiring to claim payment due a person who has died, disappeared, or has been declared incompetent must complete a form FSA–325 of Application for Payment of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent. This information is used by FSA county office employees to document the relationship of heirs or beneficiaries and determine the order of precedence for disbursing payments to survivors of the person who has died, disappeared, or been declared incompetent.

Information is obtained only when a producer eligible to receive a payment or disbursement dies, disappears, or is declared incompetent, and documentation is needed to determine if any survivors are entitled to receive such payments or disbursements.

Estimated Average Time to Respond: Public reporting burden for this collection of information is estimated to average .5 hours (30 minutes) per response. The average travel time, which is included in the total annual burden, is estimated to be 1 hour per respondent.

Type of Respondents: Producers.

Estimated Number of Respondents: 2,000.

Estimated Number of Responses per Respondent: 1.

Estimated Annual Number of Responses: 2,000.

Estimated Total Annual Burden: 3,000.

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

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

(2) Evaluate the accuracy of FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected;

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

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

Signed at Washington, DC, on June 3, 2010.

Carolyn B. Cooksie,

Acting Executive Vice President, Commodity Credit Corporation, and Administrator, Farm Service Agency.

[FR Doc. 2010–13866 Filed 6–8–10; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Annual List of Newspapers To Be Used by the Alaska Region for Publication of Legal Notices of Proposed Actions and Legal Notices of Decisions Subject to Administrative Appeal Under 36 CFR 215

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that Ranger Districts, Forests, and the Regional Office of the Alaska Region will use to publish legal notice of all decisions subject to appeal under 36 CFR part 215 and to publish legal notices for public comment on actions subject to the notice and comment provisions of 36 CFR 215, as updated on June 4, 2003. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notice of actions subject to public comment and decisions subject to appeal under 36 CFR part 215, thereby allowing them to receive constructive notice of a decision or proposed action, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers begins on July 1, 2010. This list of newspapers will remain in effect until it is superceded by a new list, published in the **Federal Register**.

ADDRESSES: Ken Post, Appeals Specialist; Forest Service, Alaska Region; P.O. Box 21628; Juneau, Alaska 99802–1628.

FOR FURTHER INFORMATION CONTACT: Ken Post, Appeals Specialist; (907) 586–8796.

SUPPLEMENTARY INFORMATION: This notice provides the list of newspapers that Responsible Officials in the Alaska Region will use to give notice of decisions subject to notice, comment, and appeal under 36 CFR part 215. The timeframe for comment on a proposed action shall be based on the date of publication of the legal notice of the proposed action in the newspapers of record identified in this notice. The timeframe for appeal under 36 CFR part 215 shall be based on the date of publication of the legal notice of the decision in the newspaper of record identified in this notice.

The newspapers to be used for giving notice of Forest Service decisions in the Alaska Region are as follows:

Alaska Regional Office

Decisions of the Alaska Regional Forester: Juneau Empire, published daily except Saturday and official holidays in Juneau, Alaska; and the Anchorage Daily News, published daily in Anchorage, Alaska.

Chugach National Forest

Decisions of the Forest Supervisor and the Glacier and Seward District Rangers: Anchorage Daily News, published daily in Anchorage, Alaska.

Decisions of the Cordova District Ranger: Cordova Times, published weekly in Cordova, Alaska.

Tongass National Forest

Decisions of the Forest Supervisor and the Craig, Ketchikan/Misty, and Thorne Bay District Rangers: Ketchikan Daily News, published daily except Sundays and official holidays in Ketchikan, Alaska.

Decisions of the Admiralty Island National Monument Ranger, the Juneau District Ranger, the Hoonah District Ranger, and the Yakutat District Ranger: Juneau Empire, published daily except Saturday and official holidays in Juneau, Alaska.

Decisions of the Petersburg District Ranger: Petersburg Pilot, published weekly in Petersburg, Alaska.

Decisions of the Sitka District Ranger: Daily Sitka Sentinel, published daily except Saturday, Sunday, and official holidays in Sitka, Alaska.

Decisions of the Wrangell District Ranger: Wrangell Sentinel, published weekly in Wrangell, Alaska.

Supplemental notices may be published in any newspaper, but the timeframes for making comments or filing appeals will be calculated based upon the date that notices are published in the newspapers of record listed in this notice.

Dated: May 24, 2010.

Beth G. Pendleton,

Regional Forester.

[FR Doc. 2010–13723 Filed 6–8–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Gallatin National Forest-Hebgen Lake Ranger District; MT; Lonesome Wood Vegetation Management Project 2

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: This integrated forest vegetation management project is designed to achieve the goals of increased firefighter and public safety, reduced wildland fire risks to adjacent property and Forest Service infrastructure, and to enhance aspen forest communities that are in decline. Proposed forest thinning and associated activities target the removal of excessive surface, ladder and crown fuel. This project begins to address the fire behavior concerns that threaten life and property. The scope of action to be addressed in the analysis is limited to actions needed to lessen wildfire risks to life and property in the identified wildland urban interface/evacuation routes in the project area, and whether to implement aspen enhancement.

A decision for this Project was withdrawn in November 2009 to respond to changed conditions related to a district court order effectively relisting the grizzly bear as a threatened species under the Endangered Species Act in the Greater Yellowstone Area. This new analysis will incorporate mitigation and analysis to comply with current direction related to the grizzly bear, and new information for other resources since 1.5 years have lapsed. Otherwise the proposal is the same project analyzed in 2007.

DATES: Comments concerning the scope of the analysis must be received by July 9, 2010. The draft environmental impact statement is expected July 2010 and the final environmental impact statement is expected November 2010.

ADDRESSES: Send written comments to Gallatin National Forest, Attn: Lonesome Wood Vegetation Management Project 2, Bozeman Ranger District, 3710 Fallon St., Ste. C., Bozeman, MT 59730. Comments may also be sent via e-mail to: *comments-northern-gallatin@fs.fed.us,* or via facsimile to 406–587–2528. Electronic comments must be submitted in Microsoft Word format. It is important that reviewers provide their comments at such times and in such a way that they are useful to the Agency's preparation of the EIS. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions specific to the Proposal.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however.

FOR FURTHER INFORMATION CONTACT: Ten Seth, Team Leader, 406–522–2520 or go to the Gallatin National Forest Web page: *http://www.fs.fed.us/r1/gallatin/?page=projects/lonesomewood_proposal.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., e.t., Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The Lonesome Wood Vegetation Management proposal is an outcome of the Hebgen Watershed Risk Assessment. The main concern for this area is wildland fuel buildup in the area because there is a high degree of wildland urban interface and reliance on a single road for access in and out of the area. There are also opportunities to restore highly valued aspen habitats.

Large crown fires with high fire intensity, dangerous flame lengths, rapid rates of fire spread and long spotting distances for firebrands are expected under the existing conditions. Prescribed burn units are fairly open with non-continuous fuels. Over time these open areas are slowly being encroached by conifer trees. The encroachment reduces the effectiveness of the areas as natural fuel breaks. Aspen stands are being encroached by conifers of various age classes. Conifer removal and/or prescribed burning are intended to reinvigorate aspen clones. The proposed treatments maintain or restore the characteristics of ecosystem composition and structure to reduce the risk of uncharacteristic wildfire effects in the wildland urban interface.

Proposed Action

The Gallatin National Forest proposes to reduce wildland fuel and aspen forest competition by forest thinning; removal of excessive dead and down trees,

branches and activity related slash, and by slashing and prescribed burning. The proposal includes a combination of treatments on approximately 2,900 acres along the Hebgen Lake Road (FSR 167) which is on the west side of Hebgen Lake. Generally, treatment would remove about 50% to 60% of the existing trees per acre in all diameter classes with an objective of maintaining approximately 13 feet between tree crowns. Forest thinning would be implemented by mechanical and hand methods. Activities may include, but are not limited to thinning through logging, slashing small trees, whole tree yarding, yarding unmerchantable material, hand and machine piling, pile and broadcast burning, hauling of commercial material, firewood removal, biomass reduction such as chipping, erosion control, construction of and rehabilitation of skid trails, landings and temporary roads. An estimated 6–6.5 miles of temporary road would be needed to implement the proposed action.

Approximately 370 acres of the proposed treatments are in the Lionhead Inventoried Roadless Area. Treatments in the roadless area are designed to restore ecosystem processes by removing generally small diameter trees. Approximately 295 acres of thinning is limited to ladder fuels, which are generally less than six inches in diameter. Another 25 acres is proposed for prescribed burning with some slashing of small trees as a pre-treatment. About 50 acres is proposed for mechanical thinning of generally small diameter trees. No temporary or permanent roads are proposed in the inventoried roadless area.

As proposed, all project work would be completed within 6–9 years, once implementation begins after a decision. A decision is expected in 2010 with implementation to begin in 2011.

The Project would implement priorities and applicable direction from the Gallatin Forest Plan and Federal Fire Policy which includes the National Fire Plan, Cohesive Strategy and the 2001 Review and Update of the 1995 Federal Wildland Fire Management Policy.

Possible Alternatives

Three alternatives have been identified: The No Action, Proposed Action and an Alternative to reduce impacts to Moose Winter Range.

Responsible Official

As the Gallatin Forest Supervisor I am the responsible official for this decision.

Nature of Decision To Be Made

What, if anything, should be done to reduce wildfire risks to life and property in the identified wildland urban interface/evacuation route in the Project area? What if anything should be done to enhance aspen communities in the project area? What associated activities, mitigation measures, restoration actions and monitoring requirements would be included in the decision?

Preliminary Issues

The following issues have been identified as possible decision factors or issues of special interest to the public: effects to the fire/fuels environment; effects to the inventoried roadless area (Lionhead 1–193); effects to habitat for Canada lynx, grizzly bear habitat and moose winter habitat.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. Two comment periods were completed for this Project during the development and publication of the Environmental Assessment and Decision/FONSI that supported the 2008 Decision. Currently, the Project is listed in the Schedule of Proposed Actions. In addition to comments received in response to the NOI and forthcoming draft environmental impact statement, there will be an open house. The Open house is scheduled on Thursday June 24 at the Hebgen Lake Ranger District between 3–7 pm.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).

Because of these court rulings, it is very important that those interested in this proposed action participate during comment periods provided so that substantive comments and objections are made available to the Forest Service at a time when they can meaningfully consider them. To assist the Forest Service in identifying and considering issues, comments should be specific to concerns associated with the proposed wildland fuel and aspen treatments. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in structuring comments.

Dated: June 1, 2010.

Mary Erickson,

Forest Supervisor.

[FR Doc. 2010–13729 Filed 6–8–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

El Dorado County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The El Dorado County Resource Advisory Committee will meet in Placerville, California. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act. The purpose of the meeting is to meet as a committee for the first time, receive a briefing on RAC duties and responsibilities, elect a chair person, and set the dates for the next meetings.

DATES: The meeting will be held at the on June 21, 2010 at 6 p.m.–9 p.m.

ADDRESSES: The meeting will be held at the El Dorado Center of Folsom Lake College, Community Room, 6699 Campus Drive, Placerville, CA 95667. Written comments should be sent to Frank Mosbacher; Forest Supervisor's Office; 100 Forni Road; Placerville, CA 95667. Comments may also be sent via e-mail to *fmosbacher@fsfed.us,* or via facsimile to 530–621–5297.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at 100 Forni Road; Placerville, CA 95667. Visitors are encouraged to call ahead to 530–622–5061 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Frank Mosbacher, Public Affairs Officer, Eldorado National Forest Supervisors Office, (530) 621–5268. Individuals who use telecommunication devices for the

deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The following business will be conducted: This will be the first time newly appointed members to the El Dorado County RAC will have a chance to meet each other. Following introductions, information will be shared about the purpose of the RAC, roles and responsibilities, and the Federal Advisory Committee Act. In addition, a committee chair will be elected and a calendar of the next meeting dates will be established. More information will be posted on the Eldorado National Forest Web site at *http://www.fs.fed.us/r5/eldorado.* A public comment opportunity will be made available following the business activity. Future meetings will have a formal public imput period for those following the yet to be developed public imput process.

Dated: June 1, 2010.

Duane A. Nelson,

Acting Forest Supervisor.

[FR Doc. 2010–13724 Filed 6–8–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Aaron Robert Henderson and Valhalla Tactical Supply

In the Matter of: Aaron Robert Henderson, 740 Jessie St., North Liberty, IA 52317. Respondent and Valhalla Tactical Supply, 740 Jessie Street, North Liberty, IA 52317. Related Person; Order Denying Export Privileges

A. Denial of Export Privileges of Aaron Robert Henderson

On September 18, 2009, in the U.S. District Court for the Southern District of Iowa, Aaron Robert Henderson ("Henderson") pleaded guilty to and was convicted of one count of violating the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) ("IEEPA"). Specifically, Henderson pleaded guilty to knowingly and willfully exporting and causing to be exported an EOTech sighting device from the United States to Taiwan without having first obtaining a validated export license from the Department of Commerce. Henderson was sentenced to time served, two years of supervised release, and a $100 special assessment.

Section 766.25 of the Export Administration Regulations ("EAR" or "Regulations") [1] provides, in pertinent part, that "[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the [Export Administration Act ("EAA")], the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778)." 15 CFR 766.25(a); see also Section 11(h) of the EAA, 50 U.S.C. app. § 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR § 766.25(d); *see* also 50 U.S.C. app. § 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security ("BIS") licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Henderson's conviction for violating the IEEPA, and have provided notice and an opportunity for Henderson to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have not received a submission from Henderson. Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Henderson's export privileges under the Regulations for a period of 10 years from the date of Henderson's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Henderson had an interest at the time of his conviction.

B. Denial of Export Privileges of Related Person

Pursuant to Sections 766.25(h) and 766.23 of the Regulations, the Director of BIS's Office of Exporter Services, in consultation with the Director of BIS's Office of Export Enforcement, may take action to name persons related to a Respondent by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business in order to prevent evasion of a denial order. Because Henderson is the owner, operator and president of Valhalla Tactical Supply ("Valhalla"), Valhalla is related to Henderson by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business. BIS believes that naming Valhalla as an entity related to Henderson is necessary to avoid evasion of the denial order against Henderson.

As provided in Section 766.23 of the Regulations, I gave notice to Valhalla that its export privileges under the Regulations could be denied for up to 10 years due to its relationship with Henderson and that BIS believes naming it as an entity related to Henderson would be necessary to prevent evasion of a denial order imposed against Henderson. In providing such notice, I gave Valhalla an opportunity to oppose its addition to the Henderson Denial Order as a related party. Having received no submission, I have decided, following consultations with BIS's Office of Export Enforcement, including its Director, to name Valhalla as a Related Person to the Henderson Denial Order, thereby denying its export privileges for ten years from the date of Henderson's conviction.

I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which the Related Person had an interest at the time of Henderson's conviction. The 10-year denial period will end on September 18, 2019.

Accordingly, *it is hereby ordered:*

I. Until September 18, 2019, Aaron Robert Henderson with a last known address at, 740 Jessie Street, North Liberty, IA 52317, and when acting for or on behalf of Henderson, his representatives, assigns, agents, or employees, ("the Denied Person") and the following person related to the Denied Person as defined by Section 766.23 of the Regulations: Valhalla Tactical Supply, with a last known address at 740 Jessie Street, North Liberty, IA 52317, and when acting for or on behalf of Valhalla, it successors or assigns, employees, agents, ("the Related Person") (together, the Denied Person and the Related Person are "Persons Subject To This Order") may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2010). The Regulations issued pursuant to the EAA, which is currently codified at 50 U.S.C. app. §§ 2401–2420 (2000). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of (August 13, 2009 (74 FR 41325, August 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.* (2000)).

(hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Persons Subject to this Order any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Persons Subject to this Order of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Persons Subject to this Order acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Persons Subject to this Order of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Persons Subject to this Order in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Persons Subject to this Order, or service any item, of whatever origin, that is owned, possessed or controlled by the Person Subject to this Order if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. In addition to the Related Person named above, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Henderson by affiliation, ownership, control or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until September 18, 2019.

VI. In accordance with Part 756 of the Regulations, Henderson may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. In accordance with Part 756 of the Regulations, the Related Person may also file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VIII. A copy of this Order shall be delivered to the Denied Person and the Related Person. This Order shall be published in the **Federal Register.**

Issued this 28th day of May 2010.

Bernard Kritzer,

Director, Office of Exporter Services.

[FR Doc. 2010–13894 Filed 6–8–10; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Shu Quan-Sheng

In the Matter of: Shu Quan-Sheng, Register #58250–083, FCI LA Tuna, Federal Correctional Institution, P.O. Box 3000, Anthony, TX 88021 and 816 Holbrook Drive, Newport News, VA 23602.

Order Denying Export Privileges

On April 10, 2009, in the U.S. District Court for the Eastern District of Virginia, Shu Quan-Sheng ("Quan-Sheng") pleaded guilty to and was convicted of violating two counts of Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2000)) ("AECA"), and one count of violating the Foreign Corrupt Practices Act (15 U.S.C. 78dd–1 and 78dd–2). Specifically, Quan-Sheng was convicted of illegally exporting space launch technical data and defense services to the People's Republic of China and offering bribes to Chinese government officials. Quan-Sheng was sentenced to 51 months in prison, two years supervised release, and a $300 special assessment. Quan-Sheng is listed on the Department of State's Debarred List.

Section 766.25 of the Export Administration Regulations ("EAR" or "Regulations") [1] provides, in pertinent part, that "[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the [Export Administration Act ("EAA")], the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778)." 15 CFR 766.25(a); see also Section 11(h) of the EAA, 50 U.S.C. app. § 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); see also 50 U.S.C. app. 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security ("BIS") licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Quan-Sheng's conviction for violating the AECA, and have provided notice and an opportunity for Quan-Sheng to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have not received a submission from

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2009). The Regulations issued pursuant to the EAA (50 U.S.C. app. 2401–2420 (2000)). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of (August 13, 2009 (74 FR 41325, August 14, 2009), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.* (2000)).

Quan-Sheng. Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Quan-Sheng's export privileges under the Regulations for a period of five years from the date of Quan-Sheng's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Quan-Sheng had an interest at the time of his conviction.

Accordingly, it is hereby Ordered:

I. Until April 10, 2014, Shu Quan-Sheng, with a last known address at: Register #58250–083, FCI LA Tuna, Federal Correctional Institution, P.O. Box 3000, Anthony, TX 88021 and 816 Holbrook Drive, Newport News, VA 23602, and when acting for or on behalf of Quan-Sheng, his representatives assigns, agents, or employees, (collectively referred to hereinafter as the "Denied Person") may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Quan-Sheng by affiliation, ownership, control or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until April 10, 2014.

VI. In accordance with Part 756 of the Regulations, Quan-Sheng may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to the Quan-Sheng. This Order shall be published in the **Federal Register.**

Issued this 28th day of May, 2010.

Bernard Kritzer,

Director, Office of Exporter Services.

[FR Doc. 2010–13896 Filed 6–8–10; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Joseph Piquet

In the Matter of: Joseph Piquet 76067–004 currently incarcerated at FDI Miami, Federal Detention Center, P.O. Box 019120, Miami, FL 33101 and 1258 SW Maplewood Dr., Port St. Lucie, FL 34986; Respondent; Order Denying Export Privileges

On May 14, 2009, in the U.S. District Court for the Southern District of Florida, Joseph Piquet ("Piquet") was found guilty of seven counts of violating the International Emergency Economics Powers Act, (50 U.S.C. 1701 *et seq.* (2000))("IEEPA"), three counts of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2000)) ("AECA"), and two conspiracy counts (18 U.S.C. 371 (2000)). Piquet was convicted based on his role in a conspiracy to purchase high-tech military and dual-use electronic components from a domestic corporation and to then ship the items from the United States to Hong Kong and the People's Republic of China without first obtaining the required export licenses. Among the commodities involved in this conspiracy were high power amplifiers designed for use by the U.S. military in early warning radar and missile target acquisition systems, and low noise amplifiers that have both commercial and military use. Piquet was sentenced to 60 months incarceration, two years supervised release, and a $700 special assessment. Piquet is listed on the Department of State's Debarred List.

Section 766.25 of the Export Administration Regulations ("EAR" or "Regulations") [1] provides, in pertinent part, that "[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the [Export Administration Act ("EAA")], the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2010). The Regulations issued pursuant to the EAA, (50 U.S.C. app. §§ 2401–2420 (2000)). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 13, 2009 (74 FR 41325, August 14, 2009), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.* (2000)).

Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778)." 15 CFR 766.25(a); *see* also Section 11(h) of the EAA, 50 U.S.C. app. 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see* also 50 U.S.C. app. § 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security ("BIS") licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Piquet's conviction for violating the IEEPA and AECA, and have provided notice and an opportunity for Piquet to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have not received a submission from Piquet. Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Piquet's export privileges under the Regulations for a period of 10 years from the date of Piquet's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Piquet had an interest at the time of his conviction.

Accordingly, *it is hereby ordered:*

I. Until May 14, 2019, Joseph Piquet, with a last known address at: 76067–004, FDI Miami, Federal Detention Center, P.O. Box 019120, Miami, FL 33101 and 1258 SW Maplewood Dr., Port St. Lucie, FL 34986, and when acting for or on behalf of Piquet, his representatives, assigns, agents or employees (collectively referred to hereinafter as the "Denied Person") may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to the Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until May 14, 2019.

VI. In accordance with Part 756 of the Regulations, Piquet may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations

VII. A copy of this Order shall be delivered to Piquet. This Order shall be published in the **Federal Register**.

Issued this *28th* day of *May,* 2010.

Bernard Kritzer,

Director, Office of Exporter Services.

[FR Doc. 2010–13897 Filed 6–8–10; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Green Supply, Inc.; Robert Leland Green and William Robert Green; Order Denying Export Privileges

In the Matter of: Green Supply, Inc., 3059 Audrian Road 581,) Vandalia, Missouri 63382, Respondent; Robert Leland Green, 3059 Audrian Road 581, Vandalia, Missouri 63382; William Robert Green, 3059 Audrian Road 581, Vandalia, Missouri 63382; *Related Persons.*

A. Denial of Export Privileges of Green Supply, Inc.

On January 22, 2008, in the U.S. District Court for the Eastern District of Missouri, Green Supply, Inc. ("GSI") pled guilty to, and was convicted of, one count of violating the International Emergency Economics Power Act, (50 U.S.C. 1701 *et seq.*) ("IEEPA") and one count of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2000)) ("AECA"). Specifically, GSI pled guilty to knowingly and willfully exporting to persons outside the United States certain commodities which included night vision goggles, global positioning systems, and firearm scopes and sights without the required licenses, in violation of IEEPA. GSI also pled guilty to knowingly and willfully exporting to persons outside the United States firearm magazines or clips without the required licenses, in violation of the AECA. GSI was sentenced to two years probation, fined $17,500.00 and an $800.00 special assessment.

Section 766.25 of the Export Administration Regulations ("EAR" or

"Regulations") [1] provides, in pertinent part, that "[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the [Export Administration Act ("EAA")], the EAR, of any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778)." 15 CFR 766.25(a); see also Section 11(h) of the EAA, 50 U.S.C. app. section 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); see also 50 U.S.C. app. section 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security ("BIS") licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of GSI's conviction for violating the IEEPA and AECA, and have provided notice and an opportunity for GSI to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have not received a submission from GSI. Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny GSI's export privileges under the Regulations for a period of five years from the date of GSI's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which GSI had an interest at the time of its conviction.

B. Denial of Export Privileges of Related Person

Pursuant to Sections 766.25(h) and 766.23 of the Regulations, the Director of BIS's Office of Exporter Services, in consultation with the Director of BIS's Office of Export Enforcement, may take action to name persons related to a Respondent by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business in order to prevent evasion of a denial order. GSI's 2009 annual report, filed with the Missouri Secretary of State on April 10, 2009 lists Robert Green as President and William Green as Secretary. William Green and Robert Green are related to GSI by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business. BIS believes that naming William Green and Robert Green as persons related to GSI is necessary to avoid evasion of the denial order against GSI.

As provided in Section 766.23 of the Regulations, I gave notice to William Green and Robert Green that their export privileges under the Regulations could be denied for up to 10 years due to their relationship with GSI and that BIS believes naming them as persons related to GSI would be necessary to prevent evasion of a denial order imposed against GSI. In providing such notice, I gave William Green and Robert Green an opportunity to oppose their addition to the GSI Denial Order as a related party. Having received no submission, I have decided, following consultations with BIS's Office of Export Enforcement, including its Director, to name William Green and Robert Green as Related Persons to the GSI Denial Order, thereby denying their export privileges for five years from the date of GSI's conviction.

I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which the Related Persons had an interest at the time of GSI's conviction. The five-year denial period will end on January 22, 2013.

Accordingly, *it is hereby* ordered

I. Until January 22, 2013, Green Supply, Inc., 3059 Audrian Road 581, Vandalia, Missouri 63382, and when acting for or on behalf of GSI, its successors or assigns, agents, or employees, ("the Denied Person") and the following persons related to the Denied Person as defined by Section 766.23 of the Regulations: Robert Leland Green and William Robert Green, both with an address at 3059 Audrian Road 581, Vandalia, Missouri 63382, and when acting for or on their behalf, employees, agents or representatives, ("the Related Persons") (together, the Denied Person and the Related Persons are "Persons Subject To This Order") may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2009). The Regulations issued pursuant to the EAA (50 U.S.C. app. section 2401–2420 (2000)). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR part 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 13, 2009 (74 FR. 41325, August 14, 2009), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.* (2000)).

III. In addition to the Related Persons named above, after notice and opportunity for comment as provided in section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to the Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until January 22, 2013.

VI. In accordance with Part 756 of the Regulations, GSI may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. In accordance with Part 756 of the Regulations, the Related Person may also file an appeal of this Order with the Under Secretary of Commerce for Industry and Security.

VIII. A copy of this Order shall be delivered to the Denied Person and the Related Person. This Order shall be published in the **Federal Register**.

Issued this 28th day of May, 2010.

Bernard Kritzer,

Director, Office of Exporter Services.

[FR Doc. 2010–13895 Filed 6–8–10; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–AY26

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Scoping Process

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

ACTION: Notice of intent to prepare an environmental impact statement (EIS); notice of initiation of scoping process; notice of scoping meetings; request for comments.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) announces its intent to prepare an amendment (Amendment 14) to the Fishery Management Plan (FMP) for Atlantic Mackerel, Squid, and Butterfish (MSB) and to prepare an EIS to analyze the impacts of any proposed management measures. This amendment may address one or more of the following issues: The implementation of catch share systems for the squid fisheries; the need for additional fishery monitoring to determine the significance of river herring and shad incidental catch in the MSB fisheries; and the effectiveness and impacts of management measures to minimize bycatch and/or incidental catch of river herrings and shads. The Council is initiating a public process to determine the scope of alternatives to be addressed in the amendment and EIS. NMFS and the Council are alerting the interested public of the commencement of the scoping process and providing for public participation in compliance with environmental documentation requirements.

DATES: Public comments on Amendment 14 scoping must be received no later than 5 p.m., eastern standard time, on July 9, 2010.

ADDRESSES: Written comments on Amendment 14 may be sent by any of the following methods:

- E-mail to the following address: *info1@mafmc.org*. Include "Scoping Comments on MSB 14" in the subject line;
- Mail to Dan Furlong, Executive Director, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901. Mark the outside of the envelope "Scoping Comments on MSB 14;" or
- Fax to Dan Furlong, (302) 674–5399. Include "Scoping Comments on MSB 14" in the fax.

Requests for copies of the scoping document and other information should be directed to Dan Furlong, Executive Director, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901, toll-free telephone: (877) 446–2362. The scoping document is also accessible via the Internet at *http://www.mafmc.org/fmp/msb.htm*.

FOR FURTHER INFORMATION CONTACT: Dan Furlong, Executive Director, Mid-Atlantic Fishery Management Council. Toll-free telephone: (877) 446–2362.

SUPPLEMENTARY INFORMATION:

Background

The Council initiated Amendment 14 to the MSB FMP for two reasons: (1) There are concerns among some stakeholders that there may be too much harvesting capacity in the squid (both Loligo and Illex) fisheries and that uncontrolled activation of latent capacity could cause negative economic effects for participants. Implementation of catch shares may address some of these concerns; and (2) There is concern by some stakeholders that more should be done to monitor and/or minimize the incidental catch of river herrings (blueback and alewife) and shads (American and hickory) in the MSB fisheries, especially given the currently low levels of monitoring in the MSB fisheries and the likely poor stock status of shads and river herrings.

Related to the first concern, this amendment may address one or more of the following issues: The implementation of catch share systems for the squid fisheries to further refine the existing management process, the biological and socio-economic outcomes of a catch share system and how such outcomes depend on specific program design features, and the possible need for changes to existing information collection processes if a catch share system is implemented. Related to the second concern, the amendment may address: The need for additional fishery monitoring to determine the significance of river herring and shad incidental catch in the MSB fisheries, and the effectiveness and impacts of possible management measures to minimize bycatch and/or incidental catch of river herrings and shads in the MSB fisheries.

The Council will gather information during the scoping period. This is the first and best opportunity for members of the public to raise concerns related to the scope of issues that will be considered in Amendment 14. The Council needs your input both to identify management issues and develop effective alternatives. Your comments early in the amendment development process will help us address issues of public concern in a thorough and appropriate manner. Comments can be made in writing or made verbally during the scoping hearings. The Council announced the scoping meeting dates in a separate **Federal Register** notice published on May 27, 2010 (75 FR 29725). If the Council decides to move forward with Amendment 14, the Council will develop a range of management alternatives to be considered and prepare an EIS to analyze the impacts of the management alternatives being considered as required by the National Environmental Policy Act. Impacts may be direct, individual, or cumulative. A draft EIS will be distributed for public review. During a 45–day public

comment period, which will include public hearings, the public may comment on the draft EIS. Following a review of the comments, the Council will then choose final preferred management measures for submission with the final EIS to the Secretary of Commerce for publishing of a proposed and then final rule, both of which have additional comment periods.

Scoping Hearing Schedule

Scoping hearings will be held on the following dates:

June 14, 2010, 7 p.m. – 9 p.m.: Hilton Garden Inn, Providence Airport/ Warwick, One Thuber Street, Warwick, RI 02886, 401–734–9600;

June 15, 2010, 7 p.m. – 9 p.m.: Holiday Inn Express East End, 1707 Old country Rd., Route 58, Riverhead, NY 11901, 631–548–1000;

June 17, 2010, 7 p.m. – 9 p.m.: Congress Hall, 251 Beach Ave, Cape May, NJ 08204, 609–884–6592; and

June 23, 2010, 7 p.m. – 9 p.m.: Virginia Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607.

Special Accommodations

The scoping hearings are accessible to people with physical disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Dan Furlong (see **ADDRESSES** above) at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 4, 2010.

Carrie Selberg,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–13861 Filed 6–4–10; 4:15 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XW83

Fisheries of the South Atlantic and Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); assessment webinars II through IV for SEDAR 22 yellowedge grouper and tilefish.

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

ACTION: Notice of SEDAR 22 Gulf of Mexico yellowedge grouper and tilefish assessment webinars II through IV.

SUMMARY: The SEDAR 22 assessments of the Gulf of Mexico stocks of yellowedge grouper and tilefish will consist of a series of workshops and webinars: a Data Workshop, a series of Assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The second, third, and fourth SEDAR 22 Assessment Process webinars will be held on Thursday, July 1, 2010 from 1 p.m. to 5 p.m. (EDT), Wednesday, July 21, 2010 from 1 p.m. to 5:00 pm (EDT), and Thursday, August 12, 2010 from 1 p.m. to 5 p.m. (EDT).

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie Neer at SEDAR (See **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information.

A listening station will be available at the Gulf of Mexico Fishery Management Council office located at 2203 N Lois Avenue, Suite 1100, Tampa, FL 33607. Those interested in participating via the listening station should contact Julie Neer at SEDAR (See **FOR FURTHER INFORMATION CONTACT**) at least 1 day prior to the webinar.

FOR FURTHER INFORMATION CONTACT: Julie A Neer, SEDAR Coordinator, 4055 Faber Place, Suite 201, North Charleston, SC 29405; telephone: (843) 571–4366; e-mail: *Julie.neer@safmc.net*.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop, (2) Assessment Process utilizing webinars and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting Panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

SEDAR 22 Assessment webinars II through IV:

Using datasets recommended from the Data Workshop, participants will employ assessment models to evaluate stock status, estimate population benchmarks and management criteria, and project future conditions. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

Meeting Schedule:

Webinar II: July 1, 2010, from 1 p.m. to 5 p.m. (EDT)

Webinar III: July 21, 2010, from 1 p.m. to 5 p.m. (EDT)

Webinar IV: August 12, 2010, from 1 p.m. to 5 p.m. (EDT)

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 10 business days prior to the meeting.

Dated: June 4, 2010.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–13840 Filed 6–8–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XW86

Gulf of Mexico 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 Gulf of Mexico Fishery Management Council will convene a web based meeting of the Ecosystem Scientific and Statistical Committee.

DATES: The webinar meeting will convene at 2 p.m. Eastern time on Tuesday, June 29, 2010 and conclude by 4 p.m.

ADDRESSES: The webinar will be accessible via internet. To participate, you must register for the webinar on the Gulf of Mexico's website. Directions on how to register will be posted one week prior to the webinar.

Council address: Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Dr. Karen Burns, Ecosystem Management Specialist; Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION: The Ecosystem Scientific and Statistical Committee will meet to discuss the proposed work plan and conceptual framework for the Ecosystem Scientific and Statistical Committee. The Ecosystem Scientific and Statistical Committee will also discuss a possible response to the Gulf oil spill.

Copies of the agenda and other related materials can be obtained by calling (813) 348–1630. Materials will also be available to download from the Gulf Council's ftp site.

Click on the ftp server under Quick Links, scroll to the Ecosystem folder. In the Ecosystem folder click on the directory named Ecosystem SSC webinar–2010–06.

Although other non-emergency issues not on the agenda may come before the Ecosystem Scientific and Statistical Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during this meeting. Actions of the Working Group will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This webinar is accessible to people with disabilities. For assistance with any of our webinars contact Tina O'Hern at the Council (see **ADDRESSES**) at least 5 working days prior to the webinar.

Dated: June 4, 2010.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–13841 Filed 6–8–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A–201–831]

Prestressed Concrete Steel Wire Strand from Mexico: Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 9, 2010.

FOR FURTHER INFORMATION CONTACT: Jennifer Meek, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2778.

SUPPLEMENTARY INFORMATION:

Background

On January 11, 2010, the Department of Commerce ("the Department") published a notice announcing the opportunity to request an administrative review of the antidumping duty order on prestressed concrete steel wire strand ("PC Strand") from Mexico for the period January 1, 2009 through December 31, 2009. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 75 FR 1333 (January 11, 2010). On January 29, 2010, in accordance with 19 CFR 351.213(b), the Department received a timely request from American Spring Wire Corp., Insteel Wire Products Co., and Sumiden Wire Products Corp., the petitioners, to conduct an administrative review of Aceros Camesa S.A. de C.V. and Deacero S.A. de C.V.

On March 4, 2010, the Department published a notice of initiation of an antidumping duty administrative review of Aceros Camesa S.A. de C.V. and Deacero S.A. de C.V. *See Initiation of Antidumping Duty Administrative Review*, 75 FR 9874 (March 4, 2010).

Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the party that requested the review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. On May 14, 2010, the petitioners withdrew their request for review within the 90-day period, and no other party requested a review. Therefore, pursuant to 19 CFR 351.213(d)(1), the Department is rescinding this administrative review.

Assessment

The Department will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties at the cash deposit rate in effect on the date of entry, for entries during the period January 1, 2009, through December 31, 2009. The Department intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice of rescission of administrative review.

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice serves as a final reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with sections 751(a)(1) and

777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: June 2, 2010.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–13862 Filed 6–8–10; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No. 100603240–0240–01]

Availability of Testing and Evaluation Report and Intent To Proceed With the Final Stages of Domain Name System Security Extensions Implementation in the Authoritative Root Zone

AGENCY: National Telecommunications and Information Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce's National Telecommunications and Information Administration (NTIA) announces the availability of the Domain Name System Security Extensions (DNSSEC) testing and evaluation report and NTIA's intent to proceed with the final stages of DNSSEC deployment in the authoritative root zone. As part of this notice, NTIA is providing a public review and comment period on the testing and evaluation report and the commencement of the final stage of the DNSSEC deployment before taking any action.

DATES: Comments must be submitted by June 21, 2010.

ADDRESSES: Written comments may be submitted by mail to Fiona Alexander, Associate Administrator, Office of International Affairs, National Telecommunications and Information Administration, US Department of Commerce, 1401 Constitution Avenue, NW., Room 4701, Washington, DC 20230. Written comments may also be sent by facsimile to (202) 482–1865 or electronically via electronic mail to *DNSSEC@ntia.doc.gov.* Comments will be posted on NTIA's Web site at *http://www.ntia.doc.gov/DNS/DNSSEC.html.*

FOR FURTHER INFORMATION CONTACT: For further information about this notice, please contact Ashley Heineman at (202) 482–0298 or *aheineman@ntia.doc.gov.*

SUPPLEMENTARY INFORMATION: The Domain Name and Addressing System (DNS) is a distributed hierarchical system that converts domain names (*e.g.*, *http://www.ntia.doc.gov*) into the numerical Internet Protocol (IP) addresses (*e.g.*, 170.110.225.155). The accuracy, integrity, and availability of the information supplied by the DNS is essential to the operation of any system or service that uses the Internet.

However, the DNS was not originally designed with strong security mechanisms, and technological advances have made it easier to successfully exploit vulnerabilities. Such exploits include distributing false DNS information and improperly re-directing Internet users to bogus Web sites.

To mitigate these vulnerabilities, the Internet Engineering Task Force (IETF),[1] using the same open standards process used to develop the core DNS protocols, developed a set of protocol security extensions known as DNSSEC. DNSSEC was designed to support authentication of the source and integrity of information stored in the DNS using public key cryptography and a hierarchy of digital signatures.

On October 9, 2008, NTIA issued a Notice of Inquiry (NOI) seeking input from the community regarding DNSSEC implementation at the Root Zone.[2] NTIA received many comments in response to the NOI. The comments NTIA received from the Internet community indicated that DNSSEC should be implemented at the Root Zone level as soon as practically possible in a manner that maintains the security and stability of the DNS. Thus, NTIA, in conjunction with the National Institute for Standards and Technology (NIST), announced in June 2009 that it would work with the Internet Corporation for Assigned Names and Numbers (ICANN) and VeriSign to deploy DNSSEC at the authoritative root zone of the Internet.[3] Subsequently, these parties initiated work on DNSSEC deployment including the development of detailed documentation and consultation with experts within the Internet technical community.[4]

Prior to NTIA providing authorization to proceed with the final stages of deployment, ICANN and VeriSign agreed to document and evaluate all DNSSEC testing and implementation efforts taken at the authoritative root zone and submit a final report to NTIA for its review and approval.[5]

On May 31, 2010, ICANN and VeriSign submitted their testing and evaluation report.[6] With the submission of the testing and evaluation report, ICANN and VeriSign also formally requested NTIA authorization to proceed with the final stages of DNSSEC deployment at the authoritative root zone. NTIA and NIST have reviewed the testing and evaluation report and conclude that DNSSEC is ready for the final stages of deployment at the authoritative root zone. NTIA hereby announces its intent to authorize the final stages of deployment, which include the publication of the root DNSSEC trust anchor[7] and the distribution of a DNSSEC validatable root zone with an anticipated completion date of July 15, 2010.

Review and Comment Period:

Before NTIA takes any action to authorize the final stage of DNSSEC deployment at the authoritative root zone, NTIA seeks public comment on the intended action. NTIA welcomes comments from the public relevant to the DNSSEC testing and evaluation report and/or NTIA's notice of intent to proceed with the final stages of DNSSEC deployment at the authoritative root zone. Comments must be submitted by June 21, 2010.

Dated: June 3, 2010.

Lawrence E. Strickling,

Assistant Secretary for Communications and Information.

[FR Doc. 2010–13893 Filed 6–8–10; 8:45 am]

BILLING CODE 3510–60–P

[1] The IETF is a large open international community of network designers, operators, vendors, and researchers concerned with the evolution of the Internet architecture and the smooth operation of the Internet. It is open to any interested individual. For more information see *http://www.ietf.org.*

[2] Enhancing the Security and Stability of the Internet's Domain Name and Addressing System, 73 FR 59,608 (Oct. 9, 2008), available at *http://www.ntia.doc.gov/frnotices/2008/FR_DNSSEC_081009.pdf.* The Root Zone is the top-level DNS zone in a Domain Name System (DNS) hierarchy.

[3] NTIA Press Release, June 8, 2009, available at *http://www.ntia.doc.gov/press/2009/OIA_DNSSEC_090603.html.*

[4] This documentation is available at *http://www.root-dnssec.org/documentation.*

[5] VeriSign's and ICANN's roles with regards to root zone management are pursuant to the Cooperative Agreement and IANA Functions Contract respectively.

[6] This report is available at *http://www.ntia.doc.gov/DNS/DNSSEC_05282010.html.*

[7] In cryptography, a trust anchor is an authoritative entity represented via a public key and associated data. It is used in the context of public key infrastructures, digital certificates and DNSSEC.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation"), has submitted a public information collection request (ICR) entitled the Learn and Serve America Programs and Performance Reporting System, also referred to as the Learn and Serve Systems and Information Exchange (LASSIE) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Meredith Archer Hatch, Program Coordinator for Knowledge Management at (202) 606–7513. Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (202) 606–3472 between 8:30 a.m. and 5 p.m. eastern time, Monday through Friday.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in this **Federal Register**:

(1) *By fax to:* (202) 395–6974, Attention: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service; and

(2) *Electronically by e-mail to: smar@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Comments

A 60-day public comment Notice was published in the **Federal Register** on March 30, 2010. This comment period ended June 1, 2010. No public comments were received from this Notice.

Description: The Corporation is seeking approval of Learn and Serve America Programs and Performance Reporting System, also referred to as the Learn and Serve Systems and Information Exchange (LASSIE). The system collects annual program data from organizations that receive grants or subgrants through the Learn and Serve America program. Data collected through the system is used for grants management and annual reporting requirements.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Learn and Serve America Programs and Performance Reporting System.

OMB Number: 3045–0095.

Agency Number: None.

Affected Public: Learn and Serve America grantees and subgrantees.

Total Respondents: Approximately 1,800.

Frequency: Annual.

Average Time per Response: Averages one hour.

Estimated Total Burden Hours: 1,800 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: June 2, 2010.

Nicole Gallant,

Director, Learn and Serve America.

[FR Doc. 2010–13883 Filed 6–8–10; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2010–OS–0074]

Information Collection; Comment Request

AGENCY: Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Department of Defense is submitting to OMB for emergency clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). A shortened comment period of one week is necessary because the collection of information related to the repeal of "Don't Ask Don't Tell" is needed prior to the submission of recommendations from the Department of Defense to the White House. The initial report on the impact of the repeal of the law on spousal family readiness and perceived unit stability and cohesion is needed by mid-September 2010. As data collection procedures needed to ensure high response rates require a 2 month field period, and analysis and summary of data requires a month time period, it is necessary to begin data collection procedures no later than June 10, 2010.

DATES: Consideration will be given to all comments received by June 16, 2010.

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, 1160 Defense Pentagon, Room 3C843, 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 information collection, please write to Col. Donna Alberto, DoD Comprehensive Review Working Group, Crystal Mall 2, 1801 S. Bell St., Suite 409, Arlington, VA; or call (703) 602–2917.

Title and OMB Number: Survey and Focus Group Scripts for Military Family Members, OMB Control Number 0704–TBD.

Type of Request: New.

Survey

Number of Respondents: 150,000.

Responses Per Respondent: 1.

Annual Responses: 150,000.

Average Burden Per Response: 30 minutes.

Annual Burden Hours: 75,000 hours.

Focus Groups

Number of Respondents: 216.

Responses per Respondent: 1.
Annual Responses: 216.
Average Burden per Response: 1 hour.
Annual Burden Hours: 216 hours.
Needs and Uses: The Department of Defense Comprehensive Review Working Group (CRWG) is the working group the Secretary of Defense directed to examine the issues associated with a repeal of the law known as "Don't Ask, Don't Tell." The CRWG is studying what impact, if any, repeal would have on military readiness, military effectiveness, unit cohesion, recruiting, retention, and family readiness. As part of these efforts, the CRWG will also look at how best to manage any impacts during implementation. The survey and focus groups are an opportunity for the families of service members to share their feelings on the issue with the CRWG and the military's senior leadership. The survey and focus groups are a critical part of the CRWG's efforts as military families are an essential part of the military community and their reactions to the repeal of "Don't Ask, Don't Tell" could have significant influence on the behavior of their spouses and the impact of repeal on recruiting, retention, and family readiness.
Affected Public: Individuals or households.
Frequency: One-time.
Respondent's Obligation: Voluntary.

Dated: June 4, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–13869 Filed 6–8–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

US Air Force Scientific Advisory Board Notice of Meeting

AGENCY: Department of the Air Force, US Air Force Scientific Advisory Board.

ACTION: Meeting Notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the United States Air Force Scientific Advisory Board (SAB) meeting will take place on Wednesday, Thursday and Friday, June 23rd–June 25th, 2010 at the Arnold and Mabel Beckman Conference Center, 100 Academy, Irvine, CA 92617. The meeting on Wednesday, June 23rd will be from 8 a.m.–2:30 p.m., the meeting on Thursday, June 24th will be from 9 a.m.–3:45 p.m., and the meeting on Friday, June 25th will be from 8 a.m.–11 a.m.

The purpose of this meeting will be to conduct the SAB quarterly meeting and to reach a consensus and vote on the findings for the FY10 studies directed by the SECAF. The results will be briefed to USAF senior leadership during the last two days of the meeting. This year's studies were: "Test Range Security", "The Future of Launch Vehicle Systems for the US Air Force", "Operating Next-Generation Unmanned Aircraft Systems for Irregular Warfare", and "Next Generation Electronic Warfare".

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155, the Administrative Assistant of the Air Force, in consultation with the Office of the Air Force General Counsel, has determined in writing that the public interest requires that all sessions of the United States Air Force Scientific Advisory Board meeting be closed to the public because they will be concerned with classified information and matters covered by sections 5 U.S.C. 552b(c)(1) and (4).

Any member of the public wishing to provide input to the United States Air Force Scientific Advisory Board should submit a written statement in accordance with 41 CFR 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act and the procedures described in this paragraph. Written statements can be submitted to the Designated Federal Officer at the address detailed below at any time. Statements being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer at the address listed below at least five calendar days prior to the meeting which is the subject of this notice. Written statements received after this date may not be provided to or considered by the United States Air Force Scientific Advisory Board until its next meeting. The Designated Federal Officer will review all timely submissions with the United States Air Force Scientific Advisory Board Chairperson and ensure they are provided to members of the United States Air Force Scientific Advisory Board before the meeting that is the subject of this notice.

FOR FURTHER INFORMATION CONTACT: The United States Air Force Scientific Advisory Board Executive Director and Designated Federal Officer, Lt Col Anthony M. Mitchell, 301–981–7135, United States Air Force Scientific Advisory Board, 1602 California Avenue, Suite #251, Andrews AFB, MD 20762, *anthonym.mitchell@pentagon.af.mil*.

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer, YA–3.

[FR Doc. 2010–13789 Filed 6–8–10; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection

AGENCY: U.S. Department of Energy.

ACTION: Notice and Request for Comments.

SUMMARY: The Department of Energy (DOE), pursuant to the Paperwork Reduction Act of 1995, has obtained an emergency 180-day approval from the Office of Management and Budget (OMB) concerning the retrospective Weatherization Assistance Program Evaluation for Program Years 2007 and 2008. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection for the next 3 years. They will also become a matter of public record. Information about the operation of the program, energy used before and after weatherization, energy used by control group low-income homes, the effectiveness of specific energy efficiency measures, customer satisfaction with the program, and non-energy benefits is needed for a comprehensive and rigorous evaluation of the program.

DATES: Comments regarding this proposed information collection must be received on or before August 9, 2010. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

Bruce Tonn, Environmental Sciences Division, Oak Ridge National Laboratory, One Bethel Valley Road, P.O. Box 2008, MS–6038, Oak Ridge, TN 37831–6038, *Fax #:* (865) 576–8646, *tonnbe@ornl.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to: Bruce Tonn, Environmental Sciences Division, Oak Ridge National Laboratory, One Bethel Valley Road, P.O. Box 2008, MS–6038, Oak Ridge, TN 37831–6038, *Fax #:* (865) 576–8646, *tonnbe@ornl.gov*.

The plan for this evaluation can be found at *http://weatherization.ornl.gov*. The surveys and data forms that comprise this emergency information request can also be found at *http://weatherization.ornl.gov*.

SUPPLEMENTARY INFORMATION: This package contains: (1) OMB No.: 1910–5151; (2) Package Title: The Weatherization Assistance Program Evaluation; (3) Type of Review: Regular; (4) Purpose: This collection of information is necessary for a complete evaluation of the program that weatherized approximately 100,000 low-income homes in Program Years 2007 and 2008; (5) Information will be collected from fifty states and Washington DC, nine hundred local weatherization agencies, approximately one thousand utilities, approximately fifteen hundred residents, and approximately eight hundred weatherization staff; (6) The estimated burden is 75142 hours; (7) There are no reporting or recordkeeping costs associated with this request.

Statutory Authority: Section 6861 of title 42 of the United States Code and 10 CFR 440.25 authorize the collection of this information.

Issued in Washington, DC on June 1, 2010.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 2010–13843 Filed 6–8–10; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2010–0407; FRL–8825–4]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from February 15, 2010 to February 26, 2010, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

DATES: Comments identified by the specific PMN number or TME number, must be received on or before July 9, 2010.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2010–0407, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Document Control Office (7407M), Office of Chemical Safety and Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number EPA–HQ–OPPT–2010–0407. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

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Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For technical information contact*: Bernice Mudd, Information Management Division (7407M), Office of Chemical Safety and Pollution Prevention, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8951; fax number: (202) 564–8955; e-mail address: *mudd.bernice@epa.gov*.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; fax number (202) 564–5603; e-mail address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter

of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from February 15, 2010 to February 26, 2010, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs

This status report identifies the PMNs, pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

In Table I of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 30 PREMANUFACTURE NOTICES RECEIVED FROM: 2/15/10 TO 2/26/10

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–10–0223	02/16/10	05/16/10	Urethane Soy Systems	(S) Polyurethanes manufacture	(G) Soybean oil and polyol
P–10–0224	02/16/10	05/16/10	CBI	(G) Constituent in ink formulation	(G) 4,4′-bipridinium, 1-(phosphonoalkyl)-1′-substituted-, salt with anion (1:2)
P–10–0225	02/12/10	05/12/10	CBI	(G) Open non-dispersive(polyurethane resin)	(G) Aromatic isocyanate prepolymer
P–10–0226	02/12/10	05/12/10	CBI	(G) Component in injection molded parts	(G) Impact modifying copolymer
P–10–0227	02/12/10	05/12/10	CBI	(G) Component in injection molded parts	(G) Impact modifying copolymer
P–10–0228	02/12/10	05/12/10	CBI	(G) Processing aid	(G) Benzoic acid derivative
P–10–0229	02/16/10	05/16/10	CBI	(G) Paper coating component	(G) Arylmethoxy aromatic ether
P–10–0230	02/16/10	05/16/10	CBI	(G) Open, non-dispersive use	(G) Polyether modified polydimethylsiloxane
P–10–0231	02/16/10	05/16/10	CBI	(S) Electrical insulating varnish for motors, generators, transformers	(G) Unsaturated polyester imide
P–10–0232	02/17/10	05/17/10	Kemira Chemicals, Inc.	(S) Scale inhibition for crude oil and gas production	(G) Polycarboxylic acid / polysulfonate derivative
P–10–0233	02/17/10	05/17/10	Huntsman Corporation	(G) De-emulsifier	(G) Monoalkylaryl alkoxylate
P–10–0234	02/17/10	05/17/10	CBI	(G) Addictive for consumer use products; dispersive use	(S) 2-cyclopentene-1-acetic acid, 2-ethylbutyl ester
P–10–0235	02/17/10	05/17/10	CBI	(G) Addictive for consumer use products; dispersive use	(S) Pyridine, 4-decyl-
P–10–0236	02/18/10	05/18/10	Coim USA Inc.	(S) Resin used to make foam insulation	(S) Dodecanedioic acid, polymer with 1,6-hexanediol

I. 30 PREMANUFACTURE NOTICES RECEIVED FROM: 2/15/10 TO 2/26/10—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–10–0237	02/18/10	05/18/10	CBI	(G) Open, non-dispersive (resin)	(G) Copolymer from acrylic acid and diethylene glycol divinylether with carboxylic acid groups in naform
P–10–0238	02/17/10	05/17/10	Syngenta Crop Protection, Inc.	(S) Intermediate	(S) Benzoic acid, 3-[[(methylamino)thioxomethyl]amino]-
P–10–0239	02/17/10	05/17/10	Syngenta Crop Protection, Inc.	(S) Intermediate	(S) 1,2,3-benzothiadiazole-7-carboxylic acid
P–10–0240	02/19/10	05/19/10	Nova Molecular Technologies, Inc.	(G) Industrial adhesive additive	(G) Tea ether amine
P–10–0241	02/19/10	05/19/10	Nova Molecular Technologies, Inc.	(G) Product will be stored onsite and used within 1–5 days to produce the amine by hydrogenation	(G) Tea ether nitrile
P–10–0242	02/19/10	05/19/10	Oleon Americas, Inc.	(G) Industrial hydraulic fluid	(S) Fatty acids, $C_{16–18}$ and C_{18}-unsatatured, mixed esters with adipic acid and trimethylolpropane
P–10–0243	02/19/10	05/19/10	CBI	(G) Surface applied mixed corrosion inhibitor for steel reinforced concrete	(G) Aqueous amino organic acid salt complex
P–10–0244	02/19/10	05/19/10	CBI	(G) Epoxy modified polyurethane prepolymer for heat curing metal assembly	(G) Epoxy modified polyurethane prepolymer
P–10–0245	02/19/10	05/19/10	Alberdingk Boley, Inc.	(S) Polyurethane coating for wood	(G) Linseed oil, ester with pentaerythritol, polymer with 5-isocyanato-1-(isocyanatomethyl)-alkylcyclohexane
P–10–0246	02/23/10	05/23/10	UBE America Inc.	(S) The additive which gives conductivity to resin	(S) Nanotube, carbon
P–10–0247	02/23/10	05/23/10	Ferro Coporation	(G) Additive for polymers	(G) Benzyl isononyl cyclohexane-1,2-dicarboxylate (provisional)
P–10–0248	02/24/10	05/24/10	CBI	(G) Foaming and wetting agent	(G) Alcohol ammonium sulfate
P–10–0249	02/24/10	05/24/10	CBI	(G) Open non-dispersive (resin)	(G) Methyl methacrylate butylmethylacrylate styrene divinylbenzene copolymer
P–10–0250	02/24/10	05/24/10	CBI	(G) A polyol for urethane adhesives (b)	(G) Aromatic acid, esters with polyols, ethoxylated
P–10–0251	02/25/10	05/25/10	CBI	(G) Polyurethane foam catalyst	(G) Amine carboxylate
P–10–0252	02/25/10	05/25/10	CBI	(G) Polyurethane foam catalyst	(G) Amine carboxylate

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

II. 8 NOTICES OF COMMENCEMENT FROM: 2/15/10 TO 2/26/10

Case No.	Received Date	Commencement Notice End Date	Chemical
P–07–0282	02/12/10	01/27/10	(S) Thiophene, 2,5-dibromo-3-hexyl-, homopolymer
P–08–0189	02/17/10	01/25/10	(S) *D*-glucopyranose, oligomeric, $C_{10–16}$-alkyl glycosides, 3-(dimethyloctadecylammonio)-2-hydroxypropyl ethers, chlorides
P–09–0243	02/17/10	01/13/10	(G) Substituted propyl methacrylamide
P–09–0299	02/12/10	01/28/10	(G) Fatty acid amide
P–09–0306	02/12/10	01/28/10	(G) Polyester
P–09–0319	02/12/10	01/28/10	(G) Polyester
P–09–0611	02/12/10	01/14/10	(G) Condensed polyol
P–10–0030	02/12/10	02/04/10	(G) Aromatic polyurethane

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: May 14, 2010.

Darryl S. Ballard,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2010–13626 Filed 6–8–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2010–0408; FRL–8825–5]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from March 1, 2010 to April 23, 2010, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

DATES: Comments identified by the specific PMN number or TME number, must be received on or before July 9, 2010.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2010–0408, by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Document Control Office (7407M), Office of Chemical Safety and Pollution Prevention (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

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III. Receipt and Status Report for PMNs

This status report identifies the PMNs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

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I. 100 PREMANUFACTURE NOTICES RECEIVED FROM: 03/01/10 TO 04/23/10

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–10–0253	03/01/10	05/29/10	CBI	(G) Thermoset molding compound; Nondispersive use	(G) Methacrylate ester capped aromatic ether polymer
P–10–0254	03/01/10	05/29/10	Piedmont Chemical Industries I, LLC.	(S) Ultra violet curable wood coatings; ultra violet curable metal coatings	(S) 2-propenoic acid, 2-methyl-, 2-hydroxyethyl ester, reaction products with dicyclopentadiene, 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, maleic anhydride and 2-methyl-1,3-propanediol
P–10–0255	03/01/10	05/29/10	Piedmont Chemical Industries I, LLC	(S) Ultra violet curable wood coatings; ultra violet curable metal coatings	(S) 2-propenoic acid, 2-hydroxyethyl ester, reaction products with dicyclopentadiene, 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, maleic anhydride and 2-methyl-1,3-propanediol
P–10–0256	03/01/10	05/29/10	CBI	(S) Coupling agent for plastics; coupling agent for rubbers	(S) Titanium, Bu alc. 2-ethyl-1-hexanol oleate stearate complexes
P–10–0257	03/01/10	05/29/10	CBI	(S) Polyurethane elastomer	(S) 1,4-butanediol, polymer with 2,4-diisocyanato-1-methylbenzene and .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)]
P–10–0258	03/01/10	05/29/10	CBI	(G) Pigment additive	(G) Sulfonated heteropolycycle
P–10–0259	03/01/10	05/29/10	CBI	(G) Pigment additive	(G) Sulfonated heteropolycycle
P–10–0260	03/02/10	05/30/10	H.B. Fuller	(G) Industrial adhesive	(G) Isocyanate-functional polyurethane prepolymer
P–10–0261	03/02/10	05/30/10	H.B. Fuller	(G) Industrial adhesive	(G) Isocyanate-functional polyurethane prepolymer
P–10–0262	03/02/10	05/30/10	Piedmont Chemical Industries I, LLC	(S) Ultra violet curable inks	(S) Fatty acids, C_{18}-unsaturated, dimers, hydrogenated, bi[3-[(1-oxo-2-propen-1-yl)oxy]-2,2-bis[[(1-oxo-2-propen-1-yl)oxy]methyl]propyl] esters
P–10–0263	03/04/10	06/01/10	Marubeni Specialty Chemicals Inc.	(G) Polymeric component	(G) Substituted cyclomethacrylate
P–10–0264	03/04/10	06/01/10	CBI	(G) Monomer	(G) Methacrylate ester of fatty alcohol alkoxylate

I. 100 PREMANUFACTURE NOTICES RECEIVED FROM: 03/01/10 TO 04/23/10—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–10–0265	03/04/10	06/01/10	CBI	(S) Coatings for car leather; water borne industrial coatings like wood	(G) Hexamethylenediisocyanate homopolymer, alkyl-oxy-terminated
P–10–0266	03/04/10	06/01/10	CBI	(S) Antioxidant for plastic articles	(G) Propanoic acid, alkylthio, (1,1-dimethylethyl) - [[alkyl-4-hydroxy-2-alkylphenyl]thio]alkylphenyl ester
P–10–0267	03/05/10	06/02/10	CBI	(G) Laundry detergent component	(G) Acrylate copolymer
P–10–0268	03/05/10	06/02/10	CBI	(G) Laundry detergent component	(G) Acrylate copolymer
P–10–0269	03/09/10	06/06/10	CBI	(S) Extrusion of tubing systems; injection molding of special applications	(G) Polymer of aromatic dicarboxylic acid and alkane diamine
P–10–0270	03/10/10	06/07/10	CBI	(G) Raw material	(G) Aromatic polyester
P–10–0271	03/12/10	06/09/10	CBI	(G) Material for electronic parts	(G) Alkyl bis(methoxymethyl) hydrocarbomocycle
P–10–0272	03/10/10	06/07/10	Robertet, Inc.	(S) As an odoriferous component of fragrance compounds	(S) Oils, *Macrocystis pyrifera*
P–10–0273	03/12/10	06/09/10	CBI	(G) Treatment for textiles	(G) Perfluoroalkylethyl methacrylate copolymer
P–10–0274	03/12/10	06/09/10	CBI	(G) Adhesive component	(G) 1,1′-methylenebis[isocyanatobenzene], polymer with polyester polyols and a polyether polyol
P–10–0275	03/15/10	06/12/10	CBI	(G) Material for electronic parts	(G) Substituted polyhydro-oxo-naphthalene sulfonate with alkylidene polycarbomonocycle
P–10–0276	03/15/10	06/12/10	CBI	(G) Antiswelling agent for clay	(G) Polyethylene polyammonium salt
P–10–0277	03/15/10	06/12/10	CBI	(G) Material for electronic parts	(G) [5,5′-biisobenzofuran]-1,1′,3,3′-tetrone, polymer with 1,4-benzenediamine, 4,4′-oxybis[benzenamine] and alkylaminosiloxane
P–10–0278	03/15/10	06/12/10	CBI	(G) Material for electronic parts	(G) Polycarbomono cyclic sulphonium camphosulphonate
P–10–0279	03/15/10	06/12/10	CBI	(G) Material for electronic parts	(G) Substituted polyhydro-oxo-naphthalene sulfonate with alkylidyne polycarbomocycle
P–10–0280	03/15/10	06/12/10	CBI	(G) Adhesion promoter, corrosion inhibitor	(G) Aluminum *B*-alanine complex
P–10–0281	03/17/10	06/14/10	CBI	(G) Component of foam	(G) Fatty acid polymer with aliphatic diol and aromatic diacid
P–10–0282	03/17/10	06/14/10	CBI	(G) Component in injection molded parts	(G) Maleated nylon graft copolymer
P–10–0283	03/17/10	06/14/10	CBI	(G) Component in injection molded parts	(G) Maleated nylon graft copolymer
P–10–0284	03/17/10	06/14/10	CBI	(G) Chemical intermediate	(G) Boron ester
P–10–0285	03/17/10	06/14/10	Syngenta Crop Protection, Inc.	(S) Intermediate	(S) Benzoic acid, 3-amino-2-mercapto-
P–10–0286	03/19/10	06/16/10	Instrumental polymer technologies, LLC.	(G) Resin for coatings	(G) Hydroxyl-terminated aliphatic polycarbonate
P–10–0287	03/19/10	06/16/10	Instrumental Polymer Technologies, LLC.	(G) Resin for coatings	(G) Hydroxyl-terminated aliphatic polycarbonate
P–10–0288	03/19/10	06/16/10	Instrumental Polymer Technologies, LLC.	(G) Resin for coatings	(G) Hydroxyl-terminated aliphatic polycarbonate
P–10–0289	03/18/10	06/15/10	Instrumental Polymer Technologies, LLC.	(G) Resin for coatings	(G) Hydroxyl-terminated aliphatic polycarbonate
P–10–0290	03/22/10	06/19/10	Reichhold, Inc.	(S) Base resin for gel coat compounds (used in FRP applications)	(G) Methacrylate terminated polyester
P–10–0291	03/23/10	06/20/10	FRX Polymers, Inc.	(G) FRX phosphonate oligomer is a non-halogenated flame retardant additive that addresses the need to replace current commercial bromide-containing flame retardant additives that are being phased out due to environmental regulation. Flame retardants are required to meet fire safety standards in order to reduce flammability of combustible materials.	(S) CA index name of respective polymer: Phosphonic acid, p-methyl-, diphenyl ester, polymer with 4,4′(1methylethylidene)bis[phenol]
P–10–0292	03/23/10	06/20/10	CBI	(G) Lubricant oil additive	(G) Alkanoic acid, mixed esters with dipentaerythritol and pentaerythritol
P–10–0293	03/23/10	06/20/10	CBI	(G) Additive	(G) Methacrylate copolymer

I. 100 PREMANUFACTURE NOTICES RECEIVED FROM: 03/01/10 TO 04/23/10—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–10–0294	03/24/10	06/21/10	Scott bader, Inc.	(G) Resin or resin additive	(G) Unsaturated urethane acrylate
P–10–0295	03/25/10	06/22/10	CBI	(G) Component of foam	(G) Fattay acid polymer with aliphatic diol and aromatic diacid
P–10–0296	03/26/10	06/23/10	3M	(G) Fluorinated chemical intermediate	(G) Fluorinated carboxylic acid
P–10–0297	03/26/10	06/23/10	3M	(G) Fluorinated chemical intermediate	(G) Fluorinated alcohol
P–10–0298	03/26/10	06/23/10	3M	(G) Fluorinated intermediate	(G) Fluorinated carboxylate ester
P–10–0299	03/26/10	06/23/10	3M	(G) Fluorinated intermediate	(G) Perfluoroalkoxyalkyl vinyl ether
P–10–0300	03/26/10	06/23/10	3M	(G) Fluorinated emulsifier	(G) Fluorinated surfactant
P–10–0301	03/25/10	06/22/10	Robertet, Inc.	(S) As an odoriferous component of fragrance compounds	(S) Oils, *laminaria digitata*
P–10–0302	03/29/10	06/26/10	CBI	(G) Destructive use in fuels	(G) Fatty acid amine salt
P–10–0303	03/30/10	06/27/10	CBI	(G) Constituent in ink formulation	(G) Heterocycle, disubstituted, salt with anion (1:1)
P–10–0304	03/30/10	06/27/10	CBI	(S) Acid dye for coloring anodized aluminum	(G) Product is a trivalent chrome complex of an azo dye
P–10–0305	03/29/10	06/26/10	CBI	(G) Paint component	(S) Acetic acid ethenyl ester, polymer with ethane and methyl 2-methyl-2-propenoate
P–10–0306	03/30/10	06/27/10	CBI	(S) Binder for car repair putty	(G) Unsaturated polyester resin
P–10–0307	03/30/10	06/27/10	Dubois Chemicals Inc.	(S) Industrial boiler treatment	(G) Powdered amine
P–10–0308	03/30/10	06/27/10	Oleon Americas, Inc.	(G) Industrial hydraulic fluid	(S) Fatty acids, $C_{16–18}$ and C_{18}-unsaturated, mixed esters with adipic acid and trimethylolpropane
P–10–0309	03/30/10	06/27/10	CBI	(S) Acid dye for coloring anodized aluminum	(G) Product is a trivalent chrome complex of an azo dye
P–10–0310	03/30/10	06/27/10	Futurefuel Chemical Company	(S) Monomer in alkyl resins; monomer in surfactants solvent; antifreeze in paints and coatings; coalecing aid - inks and coatings	(S) Glycerol formal 5-hydroxy-1,3-dioxane
P–10–0310	03/30/10	06/27/10	Futurefuel Chemical Company	(S) Monomer in alkyl resins; monomer in surfactants solvent; antifreeze in paints and coatings; coalecing aid - inks and coatings	(S) Glycerol formal isomeric mixture of 4-hydroxymethyl-1,3-dioxolane
P–10–0311	04/01/10	06/29/10	CBI	(S) Release agent	(G) Alkyl alkoxy siloxane
P–10–0312	04/01/10	06/29/10	Akzo Nobel Coatings Inc.	(S) Dispersant for the preparation of stir-in pigments in car paints	(S) 2,5-furandione, telomer with ethenylbenzene and (1-methylethyl)benzenem imides with polyethylene-polypropylene glycol 2-aminopropyl me ether
P–10–0313	04/01/10	06/29/10	ICI Performance Products LP	(S) Opacifying pigment for ceramic whiteware	(S) Diphosphoric acid, calcium salt (1:1)
P–10–0314	03/23/10	06/20/10	Sasol Chemicals North America, LLC	(S) Printing ink component, acts as gallant, rheological modifier; for industrial use only; no known consumer uses	(S) Aluminum, (2-butanolato)bis[ethyl-3-(oxo-, .kappa.,*O*)butanoato-,.kappa.,*O*']-
P–10–0315	03/31/10	06/28/10	CBI	(S) Release agent	(G) Me alkyl siloxane
P–10–0316	03/31/10	06/28/10	CBI	(G) Monomer for polymer for textile treatment additive	(G) Perfluoroalkyl acrylate
P–10–0317	03/31/10	06/28/10	CBI	(G) Paper treatment additive	(G) Fluoroalkyl acrylate copolymer
P–10–0318	04/02/10	06/30/10	3M Company	(S) Dispersant	(G) Propylene oxide ligand
P–10–0319	04/02/10	06/30/10	CBI	(G) Polyamide phenol for coatings, open, non-dispersive use	(G) Aromatic halogenated acid, polymer with a halogenated aromatic diamine and an aromatic phenolic amine
P–10–0320	04/02/10	06/30/10	CBI	(G) Open, non-dispersive use	(G) Aromatic dianhydride, polymer with an aromatic diamine and an aliphatic unsaturated ester
P–10–0321	04/02/10	06/30/10	CBI	(G) Concrete additive	(G) Modified phenol resin
P–10–0322	04/02/10	06/30/10	CBI	(G) Concrete additive	(G) Modified phenol resin
P–10–0323	03/15/10	06/12/10	Canon U.S.A., Inc.	(G) Additive for ink jet printing ink	(G) Alkyl methacrylate polymer with branched benzene, alkyl acrylate, hydroxyalkyl methacrylate, methacrylic acid and substituted methacrylate, alkaline metal salt

I. 100 PREMANUFACTURE NOTICES RECEIVED FROM: 03/01/10 TO 04/23/10—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–10–0324	04/01/10	06/29/10	CBI	(S) Curing agent or accelerator for epoxy resin	(G) Urea, *N,N′*-(methyl-1,3-phenylene)bis[*N′,N′*-bis[3-(polyalkyleneamino]-, compound with formaldehyde polymer with phenol
P–10–0325	04/05/10	07/03/10	The Goodyear Tire and Rubber Company	(S) Polymerization catalyst	(G) Neodymium ziegler-natta catalyst
P–10–0326	04/02/10	06/30/10	CBI	(G) Site-limited intermediate	(S) Propane, 1,1,1,2,3,3-hexafluoro-
P–10–0327	04/02/10	06/30/10	CBI	(G) Site-limited intermediate	(S) 1-propene, 1,2,3,3,3-pentafluoro-
P–10–0328	04/05/10	07/03/10	H.B. Fuller	(G) Industrial adhesive	(G) 2-propenoic acid, 2-mehyl-, alkyl ester, polymer with ethenyl acetate, *N*-(hydroxymethyl)-2-propenamide, methyl 2-methyl-2-propenoate and alkyl methacrylate
P–10–0329	04/05/10	07/03/10	CBI	(G) Finishing agent for textile goods	(S) Hexadecanamide, *N*-[3-(hexadecyloxy)-2-hydroxypropyl]-*N*-(2-hydroxyethyl)-
P–10–0330	04/05/10	07/03/10	CBI	(G) Component of fragrance mixture for highly dispersive applications.	(G) Trimethylpentene oxymethylpropyl ester of cyclopropanecarboxylic acid
P–10–0331	04/05/10	07/03/10	Reichhold, Inc.	(S) Carrier resin for coatings	(G) Amine salt of vegetable oil, polymer with hydroxy substituted carboxylic acid, aliphatic diisocyanate, tetra hydroxy alkane and polyol
P–10–0332	04/06/10	07/04/10	CBI	(S) Polyol for rigid foam	(G) Amino alcohol substituted phenol
P–10–0333	04/06/10	07/04/10	CBI	(S) Industrial monomer to be polymerized or reacted.	(G) 1,4:3,6-dianhydrohexitol-, reaction produc6s with chloro-oxopropoxy-benzoic acid and hydroxy-methoxybenzoic acid
P–10–0334	04/06/10	07/04/10	CBI	(S) Industrial monomer to be polymerized or reacted.	(G) Benzoic acid, (acryloxy)alkoxy-, 1,1′-(methylphenylene) ester
P–10–0335	04/06/10	07/04/10	CBI	(G) Metal coating(surface treatment)	(G) Polyester type urethane resin
P–10–0336	04/06/10	07/04/10	CBI	(G) Reactive diluent for unsaturated polyester and vinyl ester	(G) Acrylated polyester oligomer
P–10–0337	04/06/10	07/04/10	CBI	(G) Reactive diluent for unsaturated polyester and vinyl ester	(G) Methacrylated polyester oligomer
P–10–0338	04/06/10	07/04/10	CBI	(G) Laundry detergent component	(G) Acrylate copolymer
P–10–0339	04/06/10	07/04/10	CBI	(G) Laundry detergent component	(G) Acrylate copolymer
P–10–0340	04/05/10	07/03/10	Henkel adhesives	(S) Hot melt adhesive	(S) Fatty acids, C*18*-unsaturated, dimers, polymers with ethylenediamine, piperazine, polypropylene glycol diamine, sebacic acid and tall-oil fatty acids
P–10–0341	04/05/10	07/03/10	CBI	(S) Crosslinker for polymers	(G) Polyether polycarbodiimide
P–10–0342	04/06/10	07/04/10	Bimax Inc.	(S) Intermediate for production of dispersant polymer for paint colorants	(G) Poly 2-ethylhexyl methacrylate
P–10–0343	04/09/10	07/07/10	Marubeni Specialty Chemicals Inc.	(G) Polymeric component	(G) Substituted cyclomethacrylate
P–10–0344	04/05/10	07/03/10	CBI	(G) Plasticizing component of a two part coating	(G) Phenoxy alkyl ether
P–10–0345	04/16/10	07/14/10	CBI	(G) Printing ink additive	(G) Hexanoic acid, 6-[[2-[[5-[[2,7-dihydro-3-methyl-2,7-dioxo-1-(3-sulfobenzoyl)-heteropolycycle-6-yl]amino]-2,4-disulfophenyl]amino]-2-oxoethyl]amino]-, ammonium sodium salt (1:?:?)
P–10–0346	04/16/10	07/14/10	CBI	(G) Printing ink additive	(G) Copper, phthalic anhydride-2,3-pyridinedicarboxylic acid-urea reaction products complexes, aminosulfonylsulfo[[2-[[4-[(2-sulfoethyl)amino]-6-[(4-sulfophenyl)amino]-monoheterocycle-2-yl]amino]ethyl]amino]sulfonyl derivates, sodium salts
P–10–0347	04/19/10	07/17/10	CBI	(S) Electrical insulating varnish for motors, generators, transformers	(G) Modified polyester
P–10–0348	04/16/10	07/14/10	Dow Chemical Company	(S) Chemical intermediate	(G) Cyclic nitrile aldehyde

I. 100 PREMANUFACTURE NOTICES RECEIVED FROM: 03/01/10 TO 04/23/10—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–10–0349	04/16/10	07/14/10	Dow Chemical Company	(S) Chemical intermediate	(G) Cyclic nitrile aldehyde
P–10–0350	04/16/10	07/14/10	Dow Chemical Company	(S) Chemical intermediate	(G) Cyclic nitrile aldehyde
P–10–0351	04/16/10	07/14/10	Zeon Chemicals L.P.	(S) Automotive seals and gaskets	(G) Modified acrylonitrile, butadiene polymer, hydrogenated

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

II. 57 NOTICES OF COMMENCEMENT FROM: 03/01/10 TO 04/23/10

Case No.	Received Date	Commencement Notice End Date	Chemical
P–03–0481	03/08/10	01/28/10	(S) 5,2,6-(iminomethenimino)-1*H*-imidazo[4,5-b]pyrazine, octahydro-1,3,4,7,8,10-hexanitro-
P–03–0568	03/08/10	01/28/10	(S) 5,2,6-(iminomethenimino)-1*H*-imidazo[4,5-b]pyrazine, 1,3,8,10-tetraacetyloctahydro-
P–03–0789	03/22/10	03/09/10	(G) Derivatized butyl ester photoinitiator
P–06–0393	03/18/10	02/10/10	(G) Aliphatic urethane acrylate oligomer
P–06–0494	03/01/10	02/23/10	(G) Fluoroalkyl methacrylate copolymer
P–06–0598	03/08/10	03/01/10	(G) Polyester polyol urethane modified epoxy resin
P–06–0825	04/20/10	03/24/10	(G) Oxepanone, polymer with dialkyl-alkanediol, alkyl-(hydroxyaalkyl)-alkanediol, carbocycle, isocyanato-(isocyanatoalkyll)-trialkyl-, alkanoic acid, hydroxy-(hydroxyalkyl)-alkyl-, alkylamine, *N,N*-dialkyl-, aminoalkyl-trialkylcarbocyclicamine, and alkyldiamine
P–06–0832	04/16/10	03/31/10	(S) Fatty acids, palm-oil, me esters
P–06–0833	04/16/10	03/19/10	(S) Fatty acids, peanut-oil, me esters
P–06–0834	04/16/10	03/22/10	(S) Fatty acids, linseed-oil, me esters
P–07–0328	03/05/10	02/12/10	(G) NCS 2: Substituted phenol
P–07–0425	04/09/10	03/16/10	(G) MDI polyether prepolymer
P–07–0690	04/12/10	04/02/10	(G) Polyester amine adduct
P–08–0125	03/30/10	03/05/10	(G) Methacrylate ester of a polyester from an aromatic dicarboxylate and alkyl polyols
P–08–0138	04/14/10	03/30/10	(S) Carbonotrithioic acid, bis(phenylmethyl)ester
P–08–0165	04/16/10	05/21/08	(G) Extract of tea
P–08–0561	04/16/10	11/25/08	(G) Cycloalkyl piperonyl ether
P–08–0647	03/08/10	02/23/10	(S) Extractives and their physically modified derivatives. *Jasminum sambac*. Oils, jasmine, *jasminum sambac*
P–08–0672	03/26/10	03/02/10	(G) Polyester polyurethane aqueous dispersion
P–09–0058	03/23/10	03/04/10	(G) Alkenylsuccinicanhydride derivative
P–09–0179	04/07/10	04/02/10	(G) Fatty acids, dimers, polymers with dihydroxyfunctional monocarboxylic acid, alkane diol, alkyl isocyanate, alkanediol, aromatic anhydride, glycol ether and alkanetriol, compounds with amino alcohol
P–09–0269	03/11/10	03/08/10	(G) Crosslinked polystyrene resin with chelating bispicolylamine groups
P–09–0332	04/21/10	04/08/10	(G) Phosphonic acid ester
P–09–0371	03/03/10	01/31/10	(G) Organic acid metal halide complex
P–09–0372	03/08/10	02/23/10	(S) Oils, *spartium junceum*
P–09–0381	03/17/10	02/19/10	(G) Polycarbonate diol
P–09–0418	03/22/10	03/01/10	(G) Surface modified aluminum hydroxide
P–09–0463	03/18/10	02/14/10	(G) Salt of polymer of methylenebis[isocyanatocarbomonocycle],alkanepolyols and amine derivatives
P–09–0500	03/02/10	01/23/10	(G) 1,4-benzenedisulfonic acid, 2,2′-[1,2-ethenediylbis[(3-sulfo-4,1-phenylene)imino[6-[bis(alkanol)amino]-1,3,5-triazine-4,2-diyl]imino]]bis-, hexasodium salt
P–09–0525	04/06/10	03/18/10	(G) Hydroxyamino aryl amine
P–09–0526	04/06/10	03/18/10	(G) Hydroxyamino aryl triamine
P–09–0562	03/01/10	02/16/10	(G) Polymer of acrylamido alkyl propane sulfonic acid sodium ammonium salt and two acrylic monomers
P–09–0597	03/08/10	02/23/10	(S) Oils, cypress, *cypressus funebris*
P–09–0634	04/05/10	03/16/10	(S) Phenol, 4-(1,1-dimethylethyl)-2-nitro-
P–09–0647	03/05/10	02/05/10	(G) Fatty acids, C_{18}-unsaturted, dimers, polymers with glycidyl alkanoate, 4-oxopentanoic acid and trimethylolpropane
P–09–0649	04/16/10	04/08/10	(G) 2,5-furandione, polymer with alkene, alkyl ester, substituted imidazoline amide
P–09–0650	03/08/10	02/18/10	(G) Dimer fatty acid based polyester polyurethane

II. 57 NOTICES OF COMMENCEMENT FROM: 03/01/10 TO 04/23/10—Continued

Case No.	Received Date	Commencement Notice End Date	Chemical
P–10–0035	04/16/10	03/17/10	(G) Sodium carboxylate
P–10–0041	03/12/10	02/11/10	(G) Polyether polyacid comb polymer
P–10–0051	03/17/10	03/10/10	(S) Starch, 2-carboxyethyl 2-methyl-3-oxo-3-[[3-(trimethylammonio)propyl]amino]propyl ether, chloride
P–10–0053	04/02/10	03/26/10	(G) Halogenated aromatic amine
P–10–0074	04/19/10	03/23/10	(G) Butanoic acid, 3-oxo-, 2-[(2-methyl-1-oxo-2-propen -1-yl)oxy]ethyl ester, polymer with butyl 2-methyl-2-propenoate, ethenylbenzene, 2-ethylhexyl 2-propenoate, methyl 2-methyl-2-propenoate, phosphoric acid, di-ester with hydroxy ethyl methacrylate and 2-(phosphonooxy) ethyl 2-methyl-2-propenoate
P–10–0075	04/06/10	03/11/10	(G) Brominated aromatic polyether polyester
P–10–0077	03/11/10	03/04/10	(G) Linear hydroxy funtional polyester
P–10–0078	03/08/10	02/27/10	(G) Capped polyurethane adduct
P–10–0082	03/18/10	02/27/10	(S) 1,2,3-propanetriol, homopolymer, hexadecanoate octadecanoate
P–10–0085	03/16/10	03/05/10	(G) Bismuth salt of lactic acid
P–10–0100	03/25/10	03/21/10	(G) Polyester amine compound
P–10–0102	04/01/10	03/24/10	(S) Oils, jasmine, *jasminum sambac*
P–10–0103	04/19/10	03/26/10	(S) Fatty acids, C_{18}-unsaturated, di-me esters, hydrogenated, polymers with diethylene glycol, 1,6-diisocyanato-2,2,4-trimethylhexane, 1,6-diisocyanato-2,4,4-trimethylhexane, 2-heptyl-3,4-bis(9-isocyanatononyl)-1-pentylcyclohexane, 1,1′-methylenebis[4-isocyanatobenzene], 2-oxepanone and tricyclodecanedimethanol, 2-hydroxyethyl acrylate-blocked
P–10–0140	04/16/10	03/31/10	(G) Urethane modified epoxy resin
P–10–0142	04/12/10	04/01/10	(G) Furan, 2-(1,1-dimethylethyl)-2, 5-dihydro-alkyl substituted
P–10–0143	04/08/10	04/02/10	(G) Hydroxyl-terminated aliphatic polycarbonate
P–10–0147	04/19/10	04/03/10	(G) Alkoxylated alkylamine
P–10–0149	04/19/10	04/07/10	(G) Alkoxylated alkylamine salt
P–10–0165	04/19/10	04/09/10	(G) Polyester resin
P–99–0332	03/18/10	03/01/10	(G) Urethane modified aromatic isocyanate

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: May 14, 2010.

Darryl S. Ballard,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2010–13627 Filed 6–8–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2010–0456 FRL–8829–7]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from April 26, 2010 to May 7, 2010, consists of the PMNs and TME, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

DATES: Comments identified by the specific PMN number or TME number, must be received on or before July 9, 2010.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2010–0456, by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Hand Delivery*: OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number EPA–HQ–OPPT–2010–0456. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2010–0456. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other

contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For technical information contact*: Bernice Mudd, Information Management Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8951; fax number: (202) 564–8955; e-mail address: *mudd.bernice@epa.gov*.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; fax number: (202) 564–5603 e-mail address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from April 26, 2010, to May 7, 2010, consists of the PMNs and TME, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs and TMEs

This status report identifies the PMNs and TME, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

In Table I of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 20 PREMANUFACTURE NOTICES RECEIVED FROM: 4/26/10 TO 5/07/10

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–10–0352	04/23/10	07/21/10	CBI	(G) Coating hardner	(G) Benzene, isocyanatoalkyl-, polymer with diisocyanatoalkane, polyalkylene glycol alkyl ether-blocked
P–10–0353	04/26/10	07/24/10	CBI	(S) Epoxy curing agent for use in flooring applications	(G) Modified polyalkylene polyamine reacted with Bisphenol A diglycidyl ether and modified epoxy resin
P–10–0354	04/26/10	07/24/10	CBI	(G) Diluent in mold manufacture	(G) Acrylonitrile-acrylate copolymer
P–10–0355	04/26/10	07/24/10	International Flavors and Fragrances, Inc.	(S) Raw material for use in fragrances for soaps, detergent, cleaners and other household and consumer products	(S) Cyclohexanecarboxylic acid, 3-methyl-, methyl ester, (1R, 3R)-rel-
P–10–0355	04/26/10	07/24/10	International Flavors and Fragrances, Inc.	(S) Raw material for use in fragrances for soaps, detergent, cleaners and other household and consumer products	(S) Cyclohexanecarboxylic acid, 3-methyl-, methyl ester, (1R, 3S)-rel-
P–10–0356	04/26/10	07/24/10	CBI	(G) Adhesive	(G) MDI modified polyester resin
P–10–0357	04/26/10	07/24/10	CBI	(G) Lubricant additive	(G) Zinc alkyl dithiophosphate
P–10–0359	04/30/10	07/28/10	CBI	(S) Flame retardant for use in adhesives and coatings	(G) Heterocyclic salt
P–10–0360	04/30/10	07/28/10	CBI	(G) Used both in a open, non-dispersive use as a plastics additive and in a printing application and in a destructive use as a reactant	(S) 1-hexene, polymer with 1-propene
P–10–0361	04/30/10	07/28/10	CBI	(G) Organic intermediate in substituted bis-phenol manufacturing	(G) Substituted phenol
P–10–0362	04/30/10	07/28/10	CBI	(G) Organic intermediate in bisphosphite synthesis	(G) Substituted bis-phenol
P–10–0363	04/30/10	07/28/10	CBI	(G) Ligand for catalyst synthesis	(G) Aromatic bisphosphite
P–10–0364	04/30/10	07/28/10	CBI	(G) Soluble metal catalyst for organic synthesis	(G) Bisphospite nickel cyanoalkyl complex
P–10–0365	04/30/10	07/28/10	Robertet, Inc.	(S) As an odoriferous component of fragrance compounds	(S) Extractives and their physically modified derivatives. *Santalum austrocaledonicum*.
P–10–0366	04/30/10	07/28/10	CBI	(G) Printing applications, open, non-dispersive use	(G) Graphite
P–10–0367	04/23/10	07/21/10	CBI	(G) Carbon black for general industrial use.	(G) Carbon black derived from the pyrolysis of rubber tire shreds
P–10–0368	05/03/10	07/31/10	CBI	(G) Curing agent	(G) Epoxy-arylamine polymer
P–10–0369	04/23/10	07/21/10	CBI	(S) Hydrocarbons for general industrial use	(G) Tire pyrolysis oil or tire-derived oil
P–10–0370	05/04/10	08/01/10	CBI	(G) Monomer	(G) Alkylol methacrylate
P–10–0371	05/06/10	08/03/10	CBI	(S) Adhesion promoter	(G) Alkoxysilane

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TME received:

II. 1 TEST MARKETING EXEMPTION NOTICE RECEIVED FROM: 04/26/10 TO 05/07/10

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
T–10–0004	04/23/10	06/06/10	CBI	(G) Carbon black for general industrial use	(G) Carbon black derived from the pyrolysis of rubber tire shreds

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

II. 9 NOTICES OF COMMENCEMENT FROM: 4/26/10 TO 5/07/10

Case No.	Received Date	Commencement Notice End Date	Chemical
P–08–0509	04/29/10	03/31/10	(G) Perfluorinated aliphatic carboxylic acid, ammonium salt

II. 9 NOTICES OF COMMENCEMENT FROM: 4/26/10 TO 5/07/10—Continued

Case No.	Received Date	Commencement Notice End Date	Chemical
P–09–0014	04/26/10	04/16/10	(S) Deninition: Extractives and their physically modified derivatives. *Iris germanica*. Oils *Iris germanica, resinold*
P–09–0483	04/30/10	04/23/10	(G) Polyether modified polyamine
P–09–0652	04/30/10	04/16/10	(G) Alkyl alkanol amine
P–10–0021	05/05/10	04/26/10	(G) Isocyanate functional polyester urethane polymer
P–10–0044	04/28/10	04/20/10	(S) Definition: Extractives and their physically modified derivatives. *Callitropsis nootkatensis*. Oils, *callitropsis nootkatensis*
P–10–0170	04/27/10	04/21/10	(G) Urethane acrylate
P–10–0182	04/28/10	04/19/10	(G) Aromatic isocyanate reaction product with sand
P–95–0756	05/06/10	04/15/10	(G) *N,N*-tetraalkyl-alkylenediamine, propoxylated

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: May 27, 2010.

Darryl Ballard,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2010–13628 Filed 6–8–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9160–5]

Science Advisory Board Staff Office; Notification of a Public Meeting of the Clean Air Scientific Advisory Committee (CASAC) Particulate Matter Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public meeting on July 26–27, 2010 of the Clean Air Scientific Advisory Particulate Matter Review Panel (Panel) to review EPA's forthcoming *Policy Assessment for the Review of Particulate Matter National Ambient Air Quality Standards— Second External Review Draft* (June 2010).

DATES: The meeting will be held on July 26, 2010 from 9 a.m. to 5 p.m. (Eastern Time) and July 27, 2010 from 8:30 a.m. to 12 p.m. (Eastern Time).

ADDRESSES: The meeting will be held at the Marriott at Research Triangle Park, 4700 Guardian Drive, Durham, NC 27703, telephone (919) 941–6200.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants further information concerning the public meeting may contact Dr. Holly Stallworth, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail (202) 343–9867; fax (202) 233–0643; or e-mail at *stallworth.holly@epa.gov.* General information concerning the CASAC can be found on the EPA Web site at *http://www.epa.gov/casac.*

SUPPLEMENTARY INFORMATION:

Background: The Clean Air Scientific Advisory Committee (CASAC) was established under section 109(d)(2) of the Clean Air Act (CAA or Act) (42 U.S.C. 7409) as an independent scientific advisory committee. CASAC provides advice, information and recommendations on the scientific and technical aspects of air quality criteria and national ambient air quality standards (NAAQS) under sections 108 and 109 of the Act. The CASAC is a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App 2. The Panel will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Section 109(d)(1) of the CAA requires that the Agency periodically review and revise, as appropriate, the air quality criteria and the NAAQS for the six "criteria" air pollutants, including particulate matter (PM). EPA conducts scientific and policy assessments related to both primary (health-based) and secondary (welfare-based) standards for each of these pollutants. As part of that process, the CASAC Particulate Matter Review Panel has been reviewing a series of EPA's assessments that provide the basis for EPA rulemaking on particulate matter.

At the July 26–27, 2010 meeting, the CASAC Particulate Matter Review Panel will review EPA's forthcoming *Policy Assessment for the Review of the Particulate Matter National Ambient Air Quality Standards—Second External Review Draft* (June 2010). EPA's Office of Air and Radiation's Office of Air Quality Planning and Standards (OAQPS) requested CASAC's review of this draft document as part of its review of the PM NAAQS. The second draft *Policy Assessment* includes consideration of CASAC and public comments on the first draft *Policy Assessment* (March 2010) as well as additional analyses conducted by OAQPS. This draft document builds upon the key scientific and technical information contained in the Agency's *Integrated Science Assessment (ISA) for Particulate Matter: Final Report* (December 2009) as well as the two forthcoming final assessment documents titled *Particulate Matter Urban-Focused Visibility Assessment: Final Report* (June 2010) and *Quantitative Health Risk Assessment for Particulate Matter: Final Report* (June 2010).

Background information about the formation of the CASAC Particulate Matter Review Panel was published in the **Federal Register** on March 8, 2007 (72 FR 10527–10528). The Panel previously held a public teleconference on November 30, 2007 (announced November 8, 2007 in 72 FR 63177–63178) to provide consultative advice on EPA's *Draft Integrated Review Plan for the National Ambient Air Quality Standards for Particulate Matter* (October 2007), the first document in this review of the PM NAAQS.

On April 1–2, 2009, CASAC reviewed the *Integrated Science Assessment for Particulate Matter—First External Review Draft* (December 2008), and provided consultative advice on *Particulate Matter National Ambient Air Quality Standards: Scope and Methods Plan for Health Risk and Exposure Assessment* (February 2009) and *Particulate Matter National Ambient Air Quality Standards: Scope and Methods Plan for Urban Visibility Impact Assessment* (February 2009). The April 1–2, 2009 meeting was announced February 19, 2009 in 74 FR 7688–7689. As announced September 10, 2009 in 74 FR 46586–46587, on October 5–6, 2009,

CASAC reviewed the *Integrated Science Assessment for Particulate Matter—Second External Review Draft* (July 2009) and *Particulate Matter Urban Focused Visibility Assessment—External Review Draft* (September 2009) and *Risk Assessment to Support the Review of the PM Primary National Ambient Air Quality Standards—External Review Draft* (September 2009). In addition, this meeting included a discussion with CASAC of an EPA/OAQPS document titled *Policy Assessment for the Review of the Particulate Matter National Ambient Air Quality Standards: Preliminary Draft* (September 2009) on the nature of the policy assessment document including the overall structure, areas of focus, and level of detail. As announced February 23, 2010 in 75 FR 8062–8063, the CASAC Particulate Matter Review Panel reviewed second drafts of the health risk and visibility assessment documents on March 10–11, 2010. The Panel also held teleconferences (announced February 23, 2010 and April 16, 2010 in 75 FR 8062–8063 and 75 FR 19971) on April 8–9, 2010 and May 7, 2010, respectively, to review the first external review draft *Policy Assessment.*

Technical Contacts: Any questions concerning *Policy Assessment for the Review of Particulate Matter National Ambient Air Quality Standards—Second External Review Draft* (June 2010) should be directed to Ms. Beth Hassett-Sipple, OAR, at *hassett-sipple.beth@epa.gov* or (919) 541–4605.

Availability of Meeting Materials: All meeting materials (agenda, charge questions, preliminary comments and other materials) for the July 26–27, 2010 meeting will be placed on the CASAC Web site on the Web pages for those public meetings, accessible through the calendar link on the blue navigational bar at *http://www.epa.gov/casac.* The *Policy Assessment for the Review of Particulate Matter National Ambient Air Quality Standards—Second External Review Draft* (June 2010) will be available on or about June 30, 2010 at *http://www.epa.gov/ttn/naaqs/standards/pm/s_pm_2007_pa.html.*

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments for a federal advisory committee to consider as it develops advice for EPA. They should send their comments directly to the Designated Federal Officer for the relevant advisory committee. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes per speaker. To be placed on the public speaker list for the July 26–27, 2010 meeting, interested parties should notify Dr. Holly Stallworth, DFO, by e-mail no later than July 20, 2010. Individuals making oral statements will be limited to five minutes per speaker. *Written Statements:* Written statements for the July 26–27, 2010 meeting should be received in the SAB Staff Office by July 20, 2010, so that the information may be made available to the CASAC Panel for its consideration prior to this meeting. Written statements should be supplied to the DFO in the following formats: One hard copy with original signature and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, MS Word, WordPerfect, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format). Submitters are asked to provide versions of each document submitted with *and* without signatures, because the SAB Staff Office does not publish documents with signatures on its Web sites.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Stallworth at the phone number or e-mail address noted above, preferably at least ten days prior to the meeting to give EPA as much time as possible to process your request.

Dated: May 28, 2010.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2010–13855 Filed 6–8–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0440; FRL–8827–8]

Diflubenzuron; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Wyoming Department of Agriculture to use the pesticide diflubenzuron (CAS No. 35367–38–5) to treat up to 26,000 acres of alfalfa to control grasshoppers and Mormon crickets. The applicant proposes a use which is supported by the Interregional (IR)–4 program and has been requested in 5 or more previous years, and a petition for tolerance has not yet been submitted to the Agency. EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before June 24, 2010.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2010–0440, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2010–0440. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other

contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT:

Andrea Conrath, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9356; fax number: (703) 605–0781; e-mail address: *conrath.andrea@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide(s) discussed in this document, compared to the general population.

II. What Action is the Agency Taking?

Under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), at the discretion of the Administrator, a Federal or State agency may be exempted from any provision of FIFRA if the Administrator determines that emergency conditions exist which require the exemption. The Wyoming Department of Agriculture has requested the Administrator to issue a specific exemption for the use of diflubenzuron on alfalfa to control grasshoppers and Mormon Crickets. Information in accordance with 40 CFR part 166 was submitted as part of this request.

As part of this request, the applicant asserts that projected population levels for these damaging insect pests are higher than normal for the 2010 season. The applicant claims that registered alternatives will not provide adequate control to avert significant economic losses from occurring.

The Applicant proposes to make no more than two applications of diflubenzuron, at a rate of 0.032 lbs. active ingredient (a.i.) (equivalent to 2 fl. oz. of product containing 2 lbs. a.i. per gallon). Application could be made on up to 26,000 acres of alfalfa, from the date of approval, if granted, until October 31, 2010, in the State of Wyoming. If the maximum proposed acreage were treated at the maximum rate, a total of 814 lbs. active ingredient (407 gallons formulated product) could be applied.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 of FIFRA require publication of a notice of receipt of an application for a specific exemption proposing a use which is supported by the IR–4 program and has been requested in 5 or more previous years, and a petition for tolerance has not yet been submitted to the Agency.

The notice provides an opportunity for public comment on the application.

The Agency will review and consider all comments received during the comment period in determining whether to issue the specific exemption

requested by the Wyoming Department of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: May 27, 2010.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2010–13537 Filed 6–8–10; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0452; FRL–8828–1]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of a request by the registrant, Ticks or Mosquitoes, LLC., to voluntarily cancel the pesticide registration for the product, Biter Fighter.

DATES: Unless a request is withdrawn by December 6, 2010 or July 9, 2010 for registrations for which the registrant requested a waiver of the 180–day comment period, orders will be issued canceling this registration. The Agency will consider withdrawal requests postmarked no later than December 6, 2010 or July 9, 2010, whichever is applicable. Comments must be received on or July 9, 2010, for this registration where the 180–day comment period has been waived.

ADDRESSES: Submit your comments and your withdrawal request, identified by docket identification (ID) number EPA–HQ–OPP–2010–0452, by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In ITRMD documents only, insert: Written Withdrawal Request, Attention: John Jamula, Information Technology and Resources Management Division (7502P).

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

• *Instructions*: Direct your comments to docket ID number EPA–HQ–OPP–2010–0452. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Leonard Cole, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5412; e-mail address: *cole.leonard@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of an application from Ticks or Mosquitoes, LLC., the registrant, to cancel the pesticide product listed in Table 1 below.

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
75771–1	Biter Fighter	Calcium Lactate and Urea

Unless the request is withdrawn by the registrant within 180 days of publication of this notice, orders will be issued canceling this product registration. Users of this product or anyone else desiring the retention of this registration should contact the registrant directly during this 180–day period.

Table 2 includes the name and address of record for the registrant of the product in Table 1, by EPA company number:

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
75771	Ticks or Mosquitoes, LLC 905 S. Kingshighway Sikeston, MO 63801

III. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

If the registrant chooses to withdraw the request for cancellation such withdrawal must be submitted in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked before December 6, 2010. This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the product has been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. EPA's existing stocks policy (56 FR 29362) provides that: "If a registrant requests to voluntarily cancel a registration where the Agency has identified no particular risk concerns, the registrant has complied with all applicable conditions of reregistration, conditional registration, and Data Call-Ins, and the registration is not subject to a Registration Standard, Label Improvement Program, or reregistration decision, the Agency will generally permit a registrant to sell or distribute existing stocks for 1 year after the cancellation request was received. Persons other than registrant will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted."

Upon cancellation of the pesticide identified in Table 1, EPA anticipates allowing sale, distribution and use as described in this unit. Exception to this general policy will be made in specific cases when more stringent restrictions on sale, distribution, or use of the product or its ingredients have already been imposed, as in a special review action, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: May 25, 2010.

W. Michael McDavit,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 2010–13867 Filed 6–8–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0008; FRL–8828–7]

Pesticide Products; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register new uses for pesticide products containing currently registered active ingredients, pursuant to the provisions of section 3(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. EPA is publishing this notice of such applications, pursuant to section 3(c)(4) of FIFRA.

DATES: Comments must be received on or before July 9, 2010.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number specified within Unit II. of the **SUPPLEMENTARY INFORMATION**, by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays).

Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket the ID number specified for the pesticide of interest as shown in the registration application summaries. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: A contact person is listed at the end of each registration application summary and may be contacted by telephone or e-mail. The mailing address for each contact person listed is: Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number). If you are commenting in a docket that addresses multiple products, please indicate to which registration number(s) your comment applies.

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Registration Applications

EPA received applications as follows to register pesticide products containing currently registered active ingredients pursuant to the provisions of section 3(c) of FIFRA, and is publishing this notice of such applications pursuant to section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

1. *Registration Number/File Symbol*: 2647–718, 264–719, 264–850. *Docket Number*: EPA–HQ–OPP–2009–0682. *Company name and address*: Bayer CropScience, P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709. *Active ingredient*: Spiromesifen. *Proposed Uses*: Pea, dry seed; and Peppermint and Spearmint tops. *Contact*: Jennifer Gaines, (703) 305–5967; *gaines.jennifer@epa.gov*.

2. *Registration Number/File Symbol*: 265–1034, 10308–32. *Docket Number*: EPA–HQ–OPP–2008–0771. *Company name and address*: Valent U.S.A. Corporation, 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596. *Active ingredient*: Clothianidin. *Proposed Use*: Mustard seed. *Contact:* Kable Bo Davis, (703) 306–0415; *davis.kable@epa.gov*.

3. *Registration Number/File Symbol*: 352–IGI. *Docket Number:* EPA–HQ–OPP–2009–0261. *Company name and address:* E.I. du Pont de Nemours and Company, DuPont Crop Protection,

Stine-Haskell Research Center, P.O. Box 30, Newark, DE 19714. *Active ingredient*: Chlorantraniliprole. *Proposed Uses*: Seed treatment on head and leaf lettuce and spinach. *Contact:* Kable Bo Davis, (703) 306–0415; *davis.kable@epa.gov.*

4. *Registration Number/File Symbol*: 10163–247, 10163–301. *Docket Number:* EPA–HQ–OPP–2010–0343. *Company name and address:* The Gowan Company, P.O. Box 5569, Yuma, AZ 85366–5569. *Active ingredient*: Flutolanil. *Proposed Uses*: Brassica leafy vegetables; Cucurbit; and Ginseng. *Contact:* Lisa Jones, (703) 308–9424; *jones.lisa@epa.gov.*

5. *Registration Number/File Symbol*: 71711–6, 71711–7, 71711–25, 71711–27. *Docket Number:* EPA–HQ–OPP–2010–0426. *Company name and address:* Nichino America, Inc., 4550 New Linden Hill Road, Suite 501, Wilmington, DE 19808. *Active ingredient*: Pyraflufen-ethyl. *Proposed Uses*: Grapes; Hops; Olive trees; Pistachio; Pome fruit (crop group 11); Pomegranates; Stone fruit (crop group 12); and Tree nut (crop group 14). *Contact*: James M. Stone, (703) 305–7391; *stone.james@epa.gov*

6. *Registration Number/File Symbol*: 264-1025, 264-1026, 71711-26. *Docket Number*: EPA–HQ–OPP–2007–0099. *Company name and address*: Bayer CropScience LP, P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709. *Active ingredient*: Flubendiamide. *Proposed Uses*:: Legume; Soybean. *Contact*: Carmen Rodia, (703) 306–0327; *rodia.carmen@epa.gov*.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: May 28, 2010.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2010–13688 Filed 6–8–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9160–6]

Science Advisory Board Staff Office; Request for Nominations of Experts to Provide Scientific and Technical Advice Related to the Gulf of Mexico Oil Spill

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of request for nominations.

SUMMARY: The Science Advisory Board (SAB) Staff Office is requesting public nominations of experts to serve on potential workgroups or panels to advise the Agency on scientific and technical issues related to the Gulf of Mexico Oil Spill.

DATES: Nominations should be submitted by June 24, 2010 per instructions below.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this Request for Nominations may contact Ms. Stephanie Sanzone, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail (202) 343–9697; by fax at (202) 233–0643; or via e-mail at *sanzone.stephanie@epa.gov.* General information concerning the EPA Science Advisory Board can be found on the EPA SAB Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical basis for Agency positions and regulations. As announced previously **Federal Register**, May 19, 2010, Volume 75, Number 96, Page 28009), the SAB may be asked to provide advice on a range of scientific and technical issues related to the Gulf of Mexico oil spill. To expand the pool of experts available to serve as SAB consultants, the SAB Staff Office is seeking public nominations of nationally recognized experts for potential service on SAB workgroups, panels or committees to provide advice on this critical matter. The advice will assist the Agency in developing and implementing timely and scientifically appropriate responses to oil spill contamination in the Gulf of Mexico and along the Gulf Coast. All SAB advisory activities generally comply with the provisions of the Federal Advisory Committee Act (FACA). As announced previously (**Federal Register**, May 19, 2010, Volume 75, Number 96, Page 28009), critical mission and schedule requirements may preclude the full 15 days notice in the **Federal Register** prior to advisory meetings, pursuant to the final rule on Federal Advisory Committee Management codified at 41 CFR 102–3.150. However, information on Gulf of Mexico oil spill meetings, as well as experts selected for service will be posted on the SAB Web site at *http://www.epa.gov/sab* as they are available. *Nominees will be invited to serve based on:* Scientific and technical expertise, knowledge, and experience; availability and willingness to serve; absence of financial conflicts of interest; and scientific credibility and impartiality.

Request for Nominations: The SAB Staff Office is requesting nominations of nationally and internationally recognized experts with demonstrated research or operational experience assessing the environmental impacts and associated mitigation of impacts due to oil spills, oil products, oil constituents, and dispersants in air and water (including wetlands) media. Appropriate expertise may include one or more of the following disciplines: Chemistry; fate, transport and exposure assessment; toxicology; public health; ecology; ecotoxicology; risk assessment; engineering; and economics.

Process and Deadline for Submitting Nominations: Any interested person or organization may nominate qualified individuals for possible service in the areas of expertise described above. Self-nominations are encouraged. Nominations should be submitted in electronic format (which is preferred over hard copy) following the instructions for "Nominating Experts to Advisory Panels and Ad Hoc Committees Being Formed" provided on the SAB Web site. The instructions can be accessed through the "Nomination of Experts" link on the blue navigational bar on the SAB Web site at *http://www.epa.gov/sab.* To receive full consideration, nominations should include all of the information requested.

EPA's SAB Staff Office requests: contact information about the person making the nomination; contact information about the nominee; the disciplinary and specific areas of expertise of the nominee; the nominee's curriculum vitae; sources of recent grants and/or contracts; and a biographical sketch of the nominee indicating current position, educational background, research activities, and recent service on other national advisory committees or national professional organizations.

Persons having questions about the nomination procedures, or who are unable to submit nominations through the SAB Web site, should contact Ms. Sanzone, DFO as indicated above in this notice. Nominations should be submitted in time to arrive no later than June 24, 2010. EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, EPA encourages

nominations of women and men of all racial and ethnic groups.

The EPA SAB Staff Office will acknowledge receipt of nominations. The names and biosketches of qualified nominees identified by respondents to the **Federal Register** notice and additional experts identified by the SAB Staff will be posted on the SAB Web site at *http://www.epa.gov/sab.* Public comments on this List of Candidates will be accepted for 15 calendar days. The public will be requested to provide relevant information or other documentation on nominees that the SAB Staff Office should consider in evaluating candidates.

For the EPA SAB Staff Office, a balanced subcommittee or review panel includes candidates who possess the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors, may be influenced by work history and affiliation), and the collective breadth of experience to adequately address the charge. In establishing workgroups, the SAB Staff Office will consider information provided by the candidates themselves, and background information independently gathered by the SAB Staff Office. Selection criteria to be used for panel membership include: (a) Scientific and/or technical expertise, knowledge and experience (primary factors); (b) availability and willingness to serve; (c) absence of financial conflicts of interest; (d) absence of an appearance of a lack of impartiality; (e) skills working in advisory committees and panels for the Panel as a whole, and (f) diversity of and balance among scientific expertise and viewpoints.

The SAB Staff Office's evaluation of an absence of financial conflicts of interest will include a review of the "Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency" (EPA Form 3110–48). This confidential form allows Government officials to determine whether there is a statutory conflict between that person's public responsibilities (which includes membership on an EPA Federal advisory committee) and private interests and activities, or the appearance of a lack of impartiality, as defined by Federal regulation. The form may be viewed and downloaded from the following URL address *http://www.epa.gov/sab/pdf/epaform3110–48.pdf.*

The approved policy under which the EPA SAB Office selects subcommittees and review panels is described in the following document: Overview of the Panel Formation Process at the Environmental *Protection Agency Science Advisory Board* (EPA–SAB–EC–02–010), which is posted on the SAB Web site at *http://www.epa.gov/sab/pdf/ec02010.pdf.*

Dated: June 1, 2010.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2010–13858 Filed 6–8–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0012; FRL–8826–8]

Notice of Withdrawal of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the withdrawal of pesticide petitions (PPs) 5E4472, 5E4592, 6E4704, 8E7400, and 9E7603. The petitioners either voluntarily withdrew their petitions, or the petitions were administratively withdrawn by EPA.

FOR FURTHER INFORMATION CONTACT: A contact person, with telephone number and e-mail address, is listed at the end of each pesticide petition summary. You may also reach each contact person by mail at Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

Although this action only applies to the petitioners in question, it is directed to the public in general. Since various individuals or entities may be interested, the Agency has not attempted to describe all the specific entities that may be interested in this action. If you have any questions regarding this action, please consult the person listed at the end of the withdrawal summary for the pesticide petition of interest.

B. How Can I Get Copies of this Document and Other Related Information?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0012. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

II. What Action is the Agency Taking?

EPA is announcing the withdrawal of pesticide petitions received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or modification of regulations in 40 CFR part 174 or part 180 for residues of pesticide chemicals in or on various food commodities.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions that are the subject of this notice, prepared by the petitioner, was included in a docket EPA created for each rulemaking. The docket for each of the petitions is available on-line at *http://www.regulations.gov*.

Withdrawals by Petitioners

1. *PP 5E4472* (Copper 8-quinolinolate). EPA issued a proposed rule in the **Federal Register** of June 26, 1996 (61 FR 33058) (FRL–5378–2), (Docket Id No. EPA–HQ–OPP–2010–0390; formerly Docket No. PP 5E4472/P667), which announced the submission of a pesticide petition (PP 5E4472) by American Agricultural Services, Inc., 404 E. Chatham St., Cary, NC 27511. The petition proposed to amend 40 CFR 180.1001(d) (now 40 CFR 180.920) for residues of Copper 8-quinolinolate (CAS Reg. No. 10380–28–6) when used as an inert ingredient not to exceed 4% by weight in pesticide formulations applied to growing crops only. On July 31, 2000, the Agency notified American Agricultural Services, Inc., that it was administratively withdrawing the petition per the company's request. Contact: Karen Samek, (703) 347–8825; e-mail address: *samek.karen@epa.gov*.

2. *PP 5E4592* (DMSO (dimethyl sulfoxide)). EPA issued a notice in the **Federal Register** of June 25, 1997 (62 FR 34261) (FRL–5719–6), (Docket Id No. EPA–HQ–OPP–2010–0323; formerly Docket No. PF–736) which announced the submission of a pesticide petition (PP 5E4592) by Gaylord Chemical Corporation, P.O. Box 1209, Slidell, LA 70459–1209. The petition proposed to amend 40 CFR 180.1001(d) (now 40 CFR 180.920) for residues of DMSO, (CAS Reg. No. 67–68–5) when used as an inert ingredient in pesticide formulations for use on edible parts of food and feed

crops. On April 13, 2010, Gaylord Chemical Company, L.L.C., 420 Willis Avenue, Bogalusa, LA 70427, notified EPA that it was withdrawing this petition. Contact: Karen Samek, (703) 347–8825; e-mail address: *samek.karen@epa.gov*.

3. *PP 6E4704* (α-alkyl (C_{10}-C_{16})-ω-hydroxypoly(oxyethylene) sulfate and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the poly(oxyethylene) content averages 2 moles minimum). EPA issued a proposed rule in the **Federal Register** of June 4, 1996 (61 FR 28120) (FRL–5369–5), (Docket Id No. EPA–HQ–OPP–2009–0916; formerly Docket No. PP 6E4704/P657) which announced the submission of a pesticide petition (PP 6E4704) by Henkel Corporation, 4900 Este Avenue, Cincinnati, OH 45232–1491. The petition proposed to amend 40 CFR 180.1001(c) and (e) (now 40 CFR 180.910 and 40 CFR 180.930) for residues of (α-alkyl (C_{10}-C_{16})-ω-hydroxypoly(oxyethylene) sulfate and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the poly(oxyethylene) content averages 2 moles minimum) (CAS Reg. Nos. 68585–34–2 and 68891–38–3) when used as an inert ingredient in pesticide formulations applied pre/post harvest or on animals. On August 10, 2009, Lewis & Harrison, 122 C St., NW., Suite 740, Washington, DC 20001, on behalf of Cognis Corporation (formerly Henkel Corporation) notified EPA that it was withdrawing this petition. Contact: Karen Samek, (703) 347–8825; e-mail address: *samek.karen@epa.gov*.

4. *PP 8E7400* (furilazole, 3-dichloroacetyl-5-(2-furanyl)-2,2-dimethyloxazolidine). EPA issued a notice in the **Federal Register** of October 8, 2008 (73 FR 58962) (FRL–8383–7), (Docket Id No. EPA–HQ–OPP–2008–0672) which announced the submission of a pesticide petition (PP 8E7400) by Monsanto Company, 1300 I Street, NW., Suite 450 East, Washington, DC 20005. The petition proposed to amend the tolerance in 40 CFR 180.471 for residues of furilazole, 3-dichloroacetyl-5-(2-furanyl)-2,2-dimethyloxazolidine (CAS Reg. No. 121776–33–8), when used as an inert ingredient (safener) in pesticide formulations, by increasing the tolerance in or on filed corn, forage to 0.05 parts per million (ppm). On January 20, 2010, Monsanto notified EPA that it was withdrawing this petition. Contact: Karen Samek, (703) 347-8825; e-mail address: *samek.karen@epa.gov*.

5. *PP 9E7603* (Polymerized fatty acid copolymer esters with a minimum number average molecular weight (in amu) 1,200). EPA issued a notice in the **Federal Register** of October 7, 2009 (74 FR 51597) (FRL–8792–7), (Docket Id No. EPA–HQ–OPP–2009–0693) which announced the submission of a pesticide petition (PP 9E7603) by Croda Inc., 315 Cherry Lane, New Castle, DE. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of the following polymerized fatty acid copolymer esters with a minimum number average molecular weight (in amu) 1,200 (CAS Reg. Nos. 1173188–38–9; 1173188–42–5; 1173188–72–1; 1173188–75–4; 1173188–49–2; 1173188–67–4; 1173188–81–2; 1173188–83–4; 1173189–00–8; 1173189–06–4; 1173189–20–2; 1173189–22–4; 1173189–09–7; 1173189–17–7; 1173189–25–7; 1173189–28-0) when used as inert ingredients in pesticide formulations. On March 2, 2010, Croda Inc., notified EPA that it was withdrawing this petition. Contact: Deirdre Sunderland, (703) 603-0851; e-mail address: *sunderland.deirdre@epa.gov*.

III. Regulatory Assessment Requirements

This action provides notice that various tolerance petitioners have withdrawn, partially or completely, their petitions to establish tolerances. Under 40 CFR 180.8, petitioners are authorized to take such action. Because EPA is merely providing notice of actions of outside parties, the regulatory assessment requirements imposed on rulemaking do not apply to this action.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 24, 2010.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2010–13540 Filed 6–8–10; 8:45 am]

BILLING CODE 6560–50–S

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act; Notice of Meeting

DATE AND TIME: Wednesday, June 16, 2010, 2 p.m. Eastern Time.

PLACE: Commission Meeting Room on the First Floor of the EEOC Office Building, 131 M Street, NE., Washington, DC 20507.

STATUS: The meeting will be closed to the public.

MATTERS TO BE CONSIDERED: *Closed Session:* Proposed Determinations on Petitions to Revoke or Modify Subpoenas.

Note: Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register,** the Commission also provides a recorded announcement a full week in advance on future Commission sessions).

Please telephone (202) 663–7100 (voice) and (202) 663–4074 (TTY) at any time for information.

CONTACT PERSON FOR MORE INFORMATION: Stephen Llewellyn, Executive Officer on (202) 663–4070.

Dated: June 7, 2010.

Stephen Llewellyn,

Executive Officer, Executive Secretariat.

[FR Doc. 2010–13973 Filed 6–7–10; 4:15 pm]

BILLING CODE 6570–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to the Office of Management and Budget (OMB) for Emergency Review and Approval, Comments Requested

June 2, 2010.

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 for 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 [July 9, 2010]. 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 email to PRA@fcc.gov. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page http://reginfo.gov/public/do/PRAMain, (2) look for the section of the web page called "Currently Under Review", (3) click on the downward–pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214. For additional information or copies of the information collection(s), contact Judith B. Herman, OMD, 202–418–0214 or email judith–b.herman@fcc.gov.

SUPPLEMENTARY INFORMATION:

The Commission is requesting emergency OMB processing of this information collection under 5 CFR 1320.13. The Commission is requesting OMB approval by June 18, 2010.

OMB Control Number: 3060–XXXX.

Title: Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks.

Form Number: N/A.

Type of Review: New collection.

Respondents: State, local or tribal government.

Number of Respondents and Responses: 50 respondents, 50 responses.

Estimated Time per Response: 365 hours (average).

Frequency of Response: One time and quarterly reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 151, 154(i) 301, 303, 332 and 337.

Total Annual Burden: 18,250 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission is submitting this new information collection to the Office of Management and Budget (OMB) under their emergency processing provisions of 5 CFR 1320.13. The Commission is requesting OMB approval by June 18, 2010.

In the Order PS Docket No. 06–229, FCC 10–79, the Commission grants with conditions, 21 waiver petitions filed by public safety entities ("Petitioners") seeking early deployment of statewide or local public safety networks in the 700 MHz spectrum. This waiver serves the public interest by allowing state and local jurisdictions to begin broadband deployment and speed services to the public safety community. This will also allow the Petitioners to take advantage of available or potential funding, either through grants or planned budgetary expenditures, as well as to take advantage of economies of scale and other cost saving measures for deployments that are already planned. In addition, Petitioners could benefit from the announced plans of some commercial carriers to begin construction of LTE–based networks this year and early next year, which could result in significant cost savings.

One of the conditions for such waiver is the submission of interoperability plans to the Commission's Emergency Response Interoperability Center ("ERIC"). The Commission recently decided to establish ERIC to promote appropriate technical requirements that will ensure interoperability for these early deployments from their inception, as well as for any future deployed networks. Given the rapidly evolving nature of 3GPP deployments and standards, submission of the Petitioners' interoperability plans will help ensure interoperability and roaming among these early deployments.

Another condition of waiver is certification by Petitioners that their vendors are participating actively in the PSCR/DC Demonstration Network which will provide an open platform for development and testing of public safety 700 MHz LTE broadband equipment. This is important to ensure that, early in the deployment stage, new broadband equipment is being developed to support the network meets public safety's use expectations, will work in a multivendor environment, and allows for roaming across multiple networks.

We also require each Petitioner to enter into a de facto spectrum lease with the Public Safety Spectrum Trust ("PSST") in accordance with the terms and conditions of the Order. These leases must be submitted for approval by the Commission's Chief of the Public Safety and Homeland Security Bureau within 60 days of approval by OMB.

We also require each Petitioner, before deployment, to coordinate and address interference mitigation needs with any adjacent or bordering jurisdictions that also plan deployment, memorialize these agreements in writing, and submit them to ERIC within 30 days of their completion. Similarly, we require that parties provide ERIC with notice of any changes or updates within 30 days.

In light of the novel nature of these deployments and the ongoing standards and equipment development for LTE, we emphasize that diligent pursuit of deployment is expected. In this respect, we also require Petitioners to file, in consultation with the PSST, 30 days after approval by OMB and quarterly thereafter, status reports with the Public Safety and Homeland Security Bureau addressing the Petitioners' progress in three areas: 1) planning, 2) funding, and 3) deployment.

This information will be used by FCC staff to facilitate deployment of state and local public safety broadband networks as an initial step towards development of a nationwide, interoperable public safety broadband network Accurate recordkeeping of this data is vital in developing the regulatory framework for this network. Since such a network is vital for public safety and homeland security, its proper operation must be assured.

Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary,

Office of Managing Director.

[FR Doc. 2010–13838 Filed 6–8–10; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL COMMUNICATIONS COMMISSION

[AU Docket No. 10–107; DA 10–849]

Auction of 218–219 MHz Service and Phase II 220 MHz Service Licenses Scheduled for December 7, 2010; Comment Sought on Competitive Bidding Procedures for Auction 89

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the auction of certain 218–219 MHz and Phase II 220 MHz Services licenses scheduled to commence on December 7, 2010 (Auction 89). This document also seeks comments on competitive bidding procedures for Auction 89.

DATES: Comments are due on or before June 15, 2010, and reply comments are due on or before June 29, 2010.

ADDRESSES: You may submit comments, identified by AU Docket No. 10–107, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, *Attn:* WTB/ASAD, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW–A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, *etc.*) by e-mail: *FCC504@fcc.gov* or telephone: 202–418–0530 or TTY: 202–418–0432.
- The Wireless Telecommunications Bureau requests that a copy of all comments and reply comments be submitted electronically to the following address: *auction89@fcc.gov.*
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, *etc.*) by e-mail: *FCC504@fcc.gov or phone:* 202–418–0530 or TTY: 202–418–0432.

FOR FURTHER INFORMATION CONTACT: *Wireless Telecommunications Bureau, Auctions and Spectrum Access Division:* For auction legal questions: Sayuri Rajapakse at (202) 418–0660; for general auction questions: Debbie Smith or Lisa Stover at (717) 338–2868. *Mobility Division:* for service rules questions: Michael Connelly (legal) or Melvin Spann (technical) at (202) 418–0620.

SUPPLEMENTARY INFORMATION: This is a summary of the *Auction 89 Comment Public Notice* released on May 24, 2010. The complete text of the *Auction 89 Comment Public Notice,* including attachments and related Commission documents, is available for public inspection and copying from 8 a.m. to 4:30 p.m. ET Monday through Thursday or from 8 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The *Auction 89 Comment Public Notice* and related Commission documents also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 202–488–5300, fax 202–488–5563, or you may contact BCPI at its Web site: *http://www.BCPIWEB.com.* When ordering documents from BCPI, please provide the appropriate FCC document number, for example, DA10–849. The *Auction 89 Comment Public Notice* and related documents also are available on the Internet at the Commission's Web site: *http://wireless.fcc.gov/auctions/89/,* or by using the search function for AU Docket No. 10–107 on the ECFS Web page at *http://www.fcc.gov/cgb/ecfs/.*

I. Introduction

1. The Wireless Telecommunications Bureau (Bureau) announces an auction of 218–219 MHz Service licenses and Phase II 220 MHz Service licenses to commence on December 7, 2010 designated as Auction 89.

II. Licenses To Be Offered in Auction 89

2. Auction 89 will include a total of 1,868 licenses. These include licenses for spectrum not previously offered at auction, licenses that remained unsold from a previous auction, licenses on which a winning bidder in a previous auction defaulted, and licenses for spectrum previously associated with licenses that cancelled or terminated. In a few cases, the available license does not cover the entire geographic area or bandwidth that was covered by a previously auctioned license due to partitioning or disaggregation by a previous licensee. Attachment A of the *Auction 89 Comment Public Notice* provides a complete list of the licenses that are available in Auction 89.

A. License Descriptions

i. 218–219 MHz Service Licenses

3. Auction 89 will offer 1,420 licenses in the 218–219 MHz Service: 716 A Block licenses and 704 B Block licenses covering a total of 727 Cellular Market Areas (CMAs).

ii. Phase II 220 MHz Service Licenses

4. Auction 89 will offer 448 Phase II 220 MHz Service licenses, including 444 Economic Area (EA) licenses and 4 Economic Area Grouping (EAG) licenses, covering a total of 154 separate EAs and EAGs.

5. Certain licenses being offered in Auction 89 are available for only part of the geographic license area because some previously-auctioned 220 MHz licenses were partitioned. In addition, four of these licenses available for only part of the geographic license area also cover less bandwidth due to previous disaggregation. The 220 MHz Service licenses available in this auction are listed and are more fully described in Attachment A of the *Auction 89 Comment Public Notice.*

B. Incumbency Issues

i. 218–219 MHz Licenses

6. The Commission has authorized certain site-based, low power operations on a secondary basis in the 216–220 MHz band. There are also incumbent geographic area 218–219 MHz Service licenses in certain CMAs. Additional information on those licenses may be found through the Commission's Universal Licensing System (ULS), which is available at *http://wireless.fcc.gov/uls.*

ii. 220 MHz Licenses

7. A number of incumbent Phase I (site-based) 220 MHz licensees are licensed and operating on frequencies between 220 and 222 MHz. Such Phase I incumbents must be protected from harmful interference by Phase II 220 MHz licensees in accordance with the Commission's rules. These limitations may restrict the ability of Phase II

geographic area licensees to use certain portions of the electromagnetic spectrum or provide service to certain areas in their geographic license areas. There are also incumbent geographic area 220 MHz licenses in certain EAs and EAGs. Additional information on those licenses may be found through ULS.

III. Bureau Seeks Comment on Auction Procedures

A. Auction Design

i. Auction Format

8. The Bureau proposes to auction all licenses included in Auction 89 using the Commission's standard simultaneous multiple-round auction format. This type of auction offers every license for bid at the same time and consists of successive bidding rounds in which eligible bidders may place bids on individual licenses. Typically, bidding remains open on all licenses until bidding stops on every license. The Bureau seeks comment on this proposal.

ii. Anonymous Bidding

9. The Bureau proposes to conduct Auction 89 using certain procedures for limited information disclosure, also referred to as anonymous bidding. Specifically, the Bureau proposes to withhold, until after the close of bidding, public release of (1) bidders' license selections on their short-form applications (FCC Form 175); (2) the amounts of bidders' upfront payments and bidding eligibility; and (3) information that may reveal the identities of bidders placing bids and taking other bidding-related actions.

10. Under these proposed limited information procedures, the amount of every bid placed and whether a bid was withdrawn would be disclosed after the close of every round, but the identities of bidders placing or withdrawing specific bids and the net bid amounts would not be disclosed until after the close of the auction.

11. Bidders would have access to additional information about their own bids. For example, bidders would be able to view their own level of eligibility, before and during the auction, through the Commission's Integrated Spectrum Auction System (ISAS or FCC Auction System).

12. Moreover, for the purpose of complying with 47 CFR 1.2105(c), the Commission's rule prohibiting certain communications between applicants, applicants would be made aware of other applicants with which they will not be permitted to cooperate, collaborate, or communicate, including discussing bids or bidding strategies. Specifically, the Bureau would notify separately each applicant in Auction 89 whether applicants with short-form applications to participate in pending auctions, including but not limited to Auction 89, have applied for licenses in any of the same or overlapping geographic areas as that applicant.

13. After the close of bidding, bidders' license selections, upfront payment amounts, bidding eligibility, bids, and other bidding-related actions would be made publicly available.

14. The Bureau seeks comments on its proposal to implement anonymous bidding in Auction 89. The Bureau also seeks comment on alternatives to the use of anonymous bidding procedures for Auction 89. When the Commission proposed limited information disclosure procedures for the first time, it did so in response to analysis suggesting that under certain circumstances the competitiveness and economic efficiency of an SMR auction may be enhanced if such information is withheld until after the close of the auction. The Bureau encourages parties to provide information about the benefits and costs of complying with limited information procedures as compared with the benefits and costs of alternative procedures that would provide for the disclosure of more information on bidder identities and interests in the auction. If commenters believe that the Bureau should not adopt procedures to limit the disclosure of certain bidder-specific information until after the auction, they should explain their reasoning.

B. Auction Structure

i. Round Structure

15. Auction 89 will consist of sequential bidding rounds. The initial bidding schedule will be announced in a public notice to be released at least one week before the start of the auction.

16. The Commission will conduct Auction 89 over the Internet, and telephonic bidding will be available as well. The toll-free telephone number for the Auction Bidder Line will be provided to qualified bidders. The initial bidding schedule will be announced in a public notice to be released at least one week before the start of the auction.

17. The Bureau proposes to retain the discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. Under this proposal, the Bureau may change the amount of time for bidding rounds, the amount of time between rounds, or the number of rounds per day, depending upon bidding activity and other factors. The Bureau seeks comment on this proposal. Commenters may wish to address the role of the bidding schedule in managing the pace of the auction and the tradeoffs in managing auction pace by bidding schedule changes, by changing the activity requirements or bid amount parameters, or by using other means.

ii. Stopping Rule

18. For Auction 89, the Bureau proposes to employ a simultaneous stopping rule approach. A simultaneous stopping rule means that all licenses remain available for bidding until bidding closes simultaneously on all licenses. More specifically, bidding will close simultaneously on all licenses after the first round in which no bidder submits any new bids, applies a proactive waiver, or withdraws any provisionally winning bids. Thus, unless the Bureau announces alternative stopping procedures, bidding will remain open on all licenses until bidding stops on every license. Consequently, it is not possible to determine in advance how long the auction will last.

19. Further, the Bureau proposes to retain the discretion to exercise any of the following options during Auction 89: (1) Use a modified version of the simultaneous stopping rule. The modified stopping rule would close the auction for all licenses after the first round in which no bidder applies a waiver, withdraws a provisionally winning bid, or places any new bids on any license for which it is not the provisionally winning bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the provisionally winning bidder would not keep the auction open under this modified stopping rule; (2) Declare that the auction will end after a specified number of additional rounds. If the Bureau invokes this special stopping rule, it will accept bids in the specified final round(s) after which the auction will close; and (3) Keep the auction open even if no bidder submits any new bids, applies a waiver, or withdraws any provisionally winning bids. In this event, the effect will be the same as if a bidder had applied a waiver. The activity rule, therefore, will apply as usual and a bidder with insufficient activity will either lose bidding eligibility or use a waiver.

20. The Bureau proposes to exercise these options only in certain circumstances, for example, where the

auction is proceeding unusually slowly or quickly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time or will close prematurely. Before exercising certain of these options, the Bureau is likely to attempt to change the pace of the auction by, for example, changing the number of bidding rounds per day and/or changing minimum acceptable bids. The Bureau proposes to retain the discretion to exercise any of these options with or without prior announcement during the auction. The Bureau seeks comment on these proposals.

iii. Information Relating to Auction Delay, Suspension, or Cancellation

21. For Auction 89, the Bureau proposes that, by public notice or by announcement during the auction, the Bureau may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to resume the auction starting from the beginning of the current round, resume the auction starting from some previous round, or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. The Bureau emphasizes that exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers. The Bureau seeks comment on this proposal.

C. Auction Procedures

i. Upfront Payments and Bidding Eligibility

22. For Auction 89, the Bureau proposes to make the upfront payments equal to the minimum opening bids. The specific upfront payments for each license are listed in Attachment A of the *Auction 89 Comment Public Notice.* The Bureau seeks comment on this proposal.

23. The Bureau further proposes that the amount of the upfront payment submitted by a bidder will determine the bidder's initial bidding eligibility in bidding units. The Bureau proposes that each license be assigned a specific number of bidding units equal to the upfront payment listed for the license, on a bidding unit per dollar basis. The specific bidding units for each license are listed in Attachment A of the *Auction 89 Comment Public Notice.* The number of bidding units for a given license is fixed and does not change during the auction as prices rise. A bidder's upfront payment is not attributed to specific licenses. Rather, a bidder may place bids on any combination of licenses it selected on its short-form application (FCC Form 175) as long as the total number of bidding units associated with those licenses does not exceed its current eligibility.

24. Eligibility cannot be increased during the auction; it can only remain the same or decrease. Thus, in calculating its upfront payment amount and hence its initial bidding eligibility, an applicant must determine the maximum number of bidding units it may wish to bid on (or hold provisionally winning bids on) in any single round, and submit an upfront payment amount covering that total number of bidding units. Provisionally winning bids are bids that would become final winning bids if the auction were to close in that given round. The Bureau seeks comment on these proposals.

ii. Activity Rule

25. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until late in the auction before participating. A bidder's activity in a round will be the sum of the bidding units associated with any licenses upon which it places bids during the current round and the bidding units associated with any licenses for which it holds provisionally winning bids. Bidders are required to be active on a specific percentage of their current bidding eligibility during each round of the auction. Failure to maintain the requisite activity level will result in the use of an activity rule waiver, if any remain, or a reduction in the bidder's eligibility, possibly curtailing or eliminating the bidder's ability to place additional bids in the auction.

26. The Bureau proposes to divide the auction into at least two stages, each characterized by a different activity requirement. The auction will start in Stage One. The Bureau proposes to advance the auction to the next stage by announcement during the auction. In exercising this discretion, the Bureau will consider a variety of measures of auction activity, including but not limited to the percentage of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the increase in revenue. The Bureau seeks comment on these proposals.

27. The Bureau proposes the following activity requirements, while noting again that the Bureau retains the discretion to change stages unilaterally by announcement during the auction. In each round of the first stage of the auction (Stage One), a bidder desiring to maintain its current bidding eligibility is required to be active on licenses representing at least 80 percent of its current bidding eligibility. Failure to maintain the required activity level will result in the use of an activity rule waiver or a reduction in the bidder's bidding eligibility for the next round of bidding. During Stage One, a bidder's reduced eligibility for the next round will be calculated by multiplying the bidder's current round activity by five-fourths (5/4). In each round of the second stage (Stage Two), a bidder desiring to maintain its current bidding eligibility is required to be active on 95 percent of its current bidding eligibility. Failure to maintain the required activity level will result in the use of an activity rule waiver or a reduction in the bidder's bidding eligibility for the next round of bidding. During Stage Two, a bidder's reduced eligibility for the next round will be calculated by multiplying the bidder's current round activity by twenty-nineteenths (20/19).

28. Under this proposal, the Bureau will retain the discretion to change the activity requirements during the auction. For example, the Bureau could decide not to transition to Stage Two if it believes the auction is progressing satisfactorily under the Stage One activity requirement, to transition to Stage Two with an activity requirement that is higher or lower than the 95 percent proposed herein, or to add an additional stage with a higher activity requirement. If the Bureau exercises this discretion, it will alert bidders by announcement in the FCC Auction System.

iii. Activity Rule Waivers and Reducing Eligibility

29. Use of an activity rule waiver preserves the bidder's eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding, not to particular licenses. Activity rule waivers can be either proactive or automatic and are principally a mechanism for bidders to avoid the loss of bidding eligibility in the event that exigent circumstances prevent them from bidding in a particular round. The *Auction 89 Comment Public Notice* provides additional, more detailed

information on how activity rule waivers operate.

30. The Bureau proposes that each bidder in Auction 89 be provided with three activity rule waivers that may be used at the bidder's discretion during the course of the auction. The Bureau seeks comment on this proposal.

iv. Reserve Price or Minimum Opening Bids

31. A reserve price is an absolute minimum price below which an item will not be sold. Reserve prices can be either published or unpublished. A minimum opening bid, on the other hand, is the minimum bid price set at the beginning of the auction below which no bids are accepted. It is generally used to accelerate the competitive bidding process. Also, the auctioneer may have the discretion to lower the minimum opening bid amount later in the auction. It is also possible for the minimum opening bid and the reserve price to be the same amount.

32. The Bureau proposes to establish minimum opening bid amounts for Auction 89. The Bureau believes a minimum opening bid amount, which has been used in other auctions, is an effective bidding tool for accelerating the competitive bidding process. The Bureau does not propose a separate reserve price for the licenses to be offered in Auction 89.

a. 218–219 MHz Licenses

33. For 218–219 MHz licenses offered in Auction 89, the Bureau proposes to calculate minimum opening bid amounts on a license-by-license basis using a formula based on bandwidth and license area population: $.01 * MHz * license area population with a minimum of $500 per license.

34. The resulting minimum opening bid amount proposed for each 218–219 MHz license available in Auction 89 is set forth in Attachment A of the *Auction 89 Comment Public Notice.*

b. 220 MHz Licenses

35. For 220 MHz licenses offered in Auction 89, the Bureau proposes to calculate minimum opening bid amounts on a license-by-license basis as follows: EA Licenses $500 per license; and EAG Licenses $0.01 * MHz * license area population.

36. The minimum opening bid amount proposed for each 220 MHz license available in Auction 89 is set forth in Attachment A of the *Auction 89 Comment Public Notice.*

37. The Bureau seeks comment on its proposals concerning minimum opening bids. If commenters believe that these minimum opening bid amounts will deter substantial numbers of bidders from placing bids on licenses, or are not reasonable amounts, or should instead operate as a reserve price, they should explain why this is so, and comment on the desirability of an alternative approach. Commenters are advised to support their claims with valuation analyses and suggested reserve prices or minimum opening bid amount levels or formulas. In establishing minimum opening bid amounts, the Bureau particularly seeks comment on such factors as the amount of spectrum being auctioned, levels of incumbency within these spectrum bands, the availability of technology to provide service, the size of the service areas, issues of interference with other spectrum bands and any other relevant factors that could reasonably have an impact on valuation of the licenses being auctioned. The Bureau seeks comment on this approach, and on whether, consistent with Section 309(j), the public interest would be served by having no minimum opening bid amount or reserve price.

v. Bid Amounts

38. The Bureau proposes that, in each round, eligible bidders be able to place a bid on a given license using one or more pre-defined bid amounts. Under this proposal, the FCC Auction System interface will list the acceptable bid amounts for each license. The Bureau proposes to calculate bid amounts.

a. Minimum Acceptable Bids

39. The first of the acceptable bid amounts is called the minimum acceptable bid amount. The minimum acceptable bid amount for a license will be equal to its minimum opening bid amount until there is a provisionally winning bid on the license. After there is a provisionally winning bid for a license, the minimum acceptable bid amount for that license will be equal to the amount of the provisionally winning bid plus a percentage of that bid amount calculated using the formula. In general, the percentage will be higher for a license receiving many bids than for a license receiving few bids. In the case of a license for which the provisionally winning bid has been withdrawn, the minimum acceptable bid amount will equal the second highest bid received for the license.

40. The percentage of the provisionally winning bid used to establish the minimum acceptable bid amount (the additional percentage) is calculated at the end of each round, based on an activity index. The activity index is a weighted average of (a) the number of distinct bidders placing a bid on the license, and (b) the activity index from the prior round. Specifically, the activity index is equal to a weighting factor times the number of bidders placing a bid covering the license in the most recent bidding round plus one minus the weighting factor times the activity index from the prior round. The additional percentage is determined as one plus the activity index times a minimum percentage amount, with the result not to exceed a given maximum. The additional percentage is then multiplied by the provisionally winning bid amount to obtain the minimum acceptable bid for the next round. The Bureau proposes initially to set the weighting factor at 0.5, the minimum percentage at 0.1 (10%), and the maximum percentage at 0.3 (30%). Hence, at these initial settings, the minimum acceptable bid for a license will be between ten percent and thirty percent higher than the provisionally winning bid, depending upon the bidding activity for the license. Equations and examples are shown in Attachment B of the *Auction 89 Comment Public Notice.*

b. Additional Bid Amounts

41. The Bureau proposes to allow no additional bid amounts per license. Thus, the minimum acceptable bid would be the only bid amount available in the FCC Auction System interface for each license. The Bureau seeks comment on this proposal. The Bureau also seeks comment on whether, in the alternative, to allow more bid amounts per license in a given round, and if so, how many—up to a maximum of eight additional bid amounts (for a total of nine bid amounts). In particular, commenters should address the issue of additional bid amounts in light of particular circumstances of Auction 89, including the nature of the license inventory.

42. If the Bureau allows additional bid amounts, it proposes to calculate any additional bid amounts using the minimum acceptable bid amount and a bid increment percentage—more specifically, by multiplying the minimum acceptable bid by one plus successively higher multiples of the bid increment percentage. If, for example, the bid increment percentage is five percent, the calculation of the first additional acceptable bid amount is (minimum acceptable bid amount) * (1 + 0.05), or (minimum acceptable bid amount) * 1.05; the second additional acceptable bid amount equals the minimum acceptable bid amount times one plus two times the bid increment percentage, or (minimum acceptable bid amount) * 1.1, etc. If the Bureau allows additional bid amounts, it proposes to

set the bid increment percentage at 0.05 (5%).

43. The Bureau retains the discretion to change the minimum acceptable bid amounts, the number of acceptable bid amounts, the additional bid amounts, and the parameters of the formulas used to calculate minimum acceptable bid amounts and additional bid amounts if the Bureau determines that circumstances so dictate. Further, the Bureau retains the discretion to make such changes on a license-by-license basis.

44. The Bureau also retains the discretion to limit (a) the amount by which a minimum acceptable bid for a license may increase compared with the corresponding provisionally winning bid, and (b) the amount by which any additional bid amount may increase compared with the immediately preceding acceptable bid amount. For example, the Bureau could set a $1 million limit on increases in minimum acceptable bid amounts over provisionally winning bids. Thus, if the activity-based formula calculates a minimum acceptable bid amount that is $2 million higher than the provisionally winning bid on a license, the minimum acceptable bid amount would instead be capped at $1 million above the provisionally winning bid. The Bureau seeks comment on the circumstances under which the Bureau should employ such a limit, factors it should consider when determining the dollar amount of the limit, and the tradeoffs in setting such a limit or changing parameters of the activity-based formula, such as changing the minimum percentage. If the Bureau exercises this discretion, it will alert bidders by announcement in the FCC Auction System.

45. The Bureau seeks comment on its proposals. Commenters may wish to address the role of the minimum acceptable bids and the number of acceptable bid amounts in managing the pace of the auction and the tradeoffs in managing auction pace by changing the bidding schedule, activity requirements, or bid amount parameters, or by using other means.

vi. Provisionally Winning Bids

46. Provisionally winning bids are bids that would become final winning bids if the auction were to close in that given round. At the end of a bidding round, a provisionally winning bid for each license will be determined based on the highest bid amount received for the license. In the event of identical high bid amounts being submitted on a license in a given round (i.e., tied bids), the Bureau will use a random number generator to select a single provisionally winning bid from among the tied bids. (Each bid is assigned a random number, and the tied bid with the highest random number wins the tiebreaker.) The remaining bidders, as well as the provisionally winning bidder, can submit higher bids in subsequent rounds. However, if the auction were to end with no other bids being placed, the winning bidder would be the one that placed the provisionally winning bid. If any bids are received on the license in a subsequent round, the provisionally winning bid again will be determined by the highest bid amount received for the license.

47. A provisionally winning bid will remain the provisionally winning bid until there is a higher bid on the license at the close of a subsequent round, unless the provisionally winning bid is withdrawn. Bidders are reminded that provisionally winning bids count toward activity for purposes of the activity rule.

vii. Bid Removal

48. For Auction 89, the Bureau proposes and seeks comment on the following bid removal procedures. Before the close of a bidding round, a bidder has the option of removing any bid placed in that round. By removing selected bids in the FCC Auction System, a bidder may effectively undo any of its bids placed within that round. In contrast to the bid withdrawal provisions, a bidder removing a bid placed in the same round is not subject to a withdrawal payment. Once a round closes, a bidder may no longer remove a bid.

viii. Bid Withdrawal

49. A bidder may withdraw its provisionally winning bids using the *withdraw bids* function in the FCC Auction System. A bidder that withdraws its provisionally winning bid(s) is subject to the bid withdrawal payment provisions of the Commission rules.

50. For Auction 89, the Bureau proposes to limit each bidder to withdrawing provisionally winning bids in only one round during the course of the auction. To permit a bidder to withdraw bids in more than one round may encourage insincere bidding or the use of withdrawals for anti-competitive purposes. The round in which withdrawals may be used will be at the bidder's discretion, and there is no limit on the number of provisionally winning bids that may be withdrawn during that round. Withdrawals must be in accordance with the Commission's rules, and are subject to the bid withdrawal payment provisions specified in 47 CFR 1.2104(g). The Bureau seeks comment on these bid withdrawal procedures. If commenters believe that each bidder should be allowed to withdraw provisionally winning bids in more than one round during the course of the auction, or should not be permitted to withdraw any bids, they should state how many bid withdrawal rounds they seek and explain what specific factors lead them to that conclusion.

D. Post-Auction Procedures

i. Establishing the Interim Withdrawal Payment Percentage

51. The Bureau seeks comment on the appropriate percentage of a withdrawn bid that should be assessed as an interim withdrawal payment in the event that a final withdrawal payment cannot be determined at the close of the auction. In general, the Commission's rules provide that a bidder that withdraws a bid during an auction is subject to a withdrawal payment equal to the difference between the amount of the withdrawn bid and the amount of the winning bid in the same or subsequent auction(s). If a bid is withdrawn and no subsequent higher bid is placed and/or the license is not won in the same auction, the final withdrawal payment cannot be calculated until after the close of a subsequent auction in which a higher bid for the license (or the equivalent to the license) is placed or the license is won. When that final payment cannot yet be calculated, the bidder that withdrew the bid is assessed an interim bid withdrawal payment, which will be applied toward any final bid withdrawal payment that is ultimately assessed. Section 1.2104(g)(1) of the Commission rules requires that the percentage of the withdrawn bid to be assessed as an interim bid withdrawal payment be between three percent and twenty percent and that it be set in advance of the auction.

52. The Commission has determined that the level of the interim withdrawal payment in a particular auction will be based on the nature of the service and the inventory of the licenses being offered. The Commission has noted that it may impose a higher interim withdrawal payment percentage to deter the anti-competitive use of withdrawals when, for example, bidders likely will not need to aggregate the licenses being offered in the auction, such as when few licenses are offered that are on adjacent frequencies or in adjacent areas, or when there are few synergies to be captured by combining licenses.

53. With respect to the licenses being offered in Auction 89, the service rules permit a variety of fixed, mobile, and paging services, though the opportunities for combining licenses on adjacent frequencies or in adjacent areas are limited in some cases. Balancing the potential need for bidders to use withdrawals to avoid winning incomplete combinations of licenses with the Bureau's interest in deterring undesirable strategic use of withdrawals, the Bureau proposes a percentage below the maximum twenty percent permitted under the current rules but above the three percent previously provided by the Commission's rules. Specifically, the Bureau proposes to establish an interim bid withdrawal payment of ten percent of the withdrawn bid for this auction. The Bureau seeks comment on this proposal. If commenters advocate the use of a different percentage they should provide relevant support including information on the likelihood that bidders will need to aggregate licenses on adjacent frequencies or in adjacent areas.

ii. Establishing the Additional Default Payment Percentage

54. Any winning bidder that, after the close of an auction, defaults—by, for example, failing to remit the required down payment within the prescribed period of time, failing to submit a timely long-form application, or failing to make full payment—or is otherwise disqualified is liable for a default payment under 47 CFR 1.2104(g)(2). This payment consists of a deficiency payment, equal to the difference between the amount of the bidder's bid and the amount of the winning bid the next time a license covering the same spectrum is won in an auction, plus an additional payment equal to a percentage of the defaulter's bid or of the subsequent winning bid, whichever is less.

55. Section 1.2104(g)(2) of the Commission's rules provides that in advance of each auction without combinatorial or package bidding, establish an additional default payment for that auction of three percent up to a maximum of twenty percent. The level of this payment in each case will be based on the nature of the service and the inventory of the licenses being offered.

56. As previously noted by the Commission, defaults weaken the integrity of the auction process and impede the deployment of service to the public, and an additional default payment of more than three percent will be more effective in deterring defaults. Given the history of these services and the inventory of the licenses being offered in Auction 89, the Bureau believes that an additional default payment percentage of fifteen percent will provide a sufficient deterrent to defaults. The Bureau seeks comment on this proposal.

IV. Ex Parte Rules

57. This proceeding has been designated as a permit-but-disclose proceeding in accordance with the Commission's ex parte rules. Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written ex parte presentations in permit-but-disclose proceedings are set forth in 47 CFR 1.1206(b).

Federal Communications Commission.

Gary D. Michaels,

Deputy Chief, Auctions and Spectrum Access Division, WTB.

[FR Doc. 2010–13880 Filed 6–8–10; 8:45 am]

BILLING CODE 6712–01–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: Thursday, June 24, 2010, from 8:45 a.m. to 4 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 the Small Dollar Loan Pilot Program, Safe Transactional and Savings Account Proposed Templates, 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: June 4, 2010.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. 2010–13846 Filed 6–8–10; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are

set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 23, 2010.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. John V. Tippmann, Sr., as an individual, and John V. Tippman, Sr.; John and Helen McCarthy; Richard and Sally Ley; John Tippman, Jr.; Patrick Tippman, and Brian and Jennifer Backstrom; all of Fort Wayne Indiana, acting as a group acting in concert; and Keith E. Busse, as an individual; Keith E. Busse Family Investment Company, LLC; and Aaron R. Busse, all of Fort Wayne, Indiana, also as a group acting in concert, to acquire voting shares of Tower Financial Corporation, and thereby indirectly acquire voting shares of Tower Bank & Trust Company, both of Fort Wayne, Indiana.

Board of Governors of the Federal Reserve System, June 3, 2010.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2010–13813 Filed 6–8–10; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 24, 2010.

A. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Thomas L. Rees, Colorado City, Texas; to retain voting shares of City National Bancshares, Inc., and thereby indirectly retain voting shares of The City National Bank of Colorado City, both of Colorado City, Texas.

Board of Governors of the Federal Reserve System, June 4, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–13853 Filed 6–8–10; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 2, 2010.

A. Federal Reserve Bank of New York (Ivan Hurwitz, Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. Urban National Holding Corp., New York, New York; to become a bank holding company by acquiring 100 percent of the voting shares of Metropolitan Bank Holding Corp., and thereby indirectly acquire voting shares of Metropolitan National Bank, both of New York, New York.

Board of Governors of the Federal Reserve System, June 3, 2010.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2010–13814 Filed 6–8–10; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 6, 2010.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Prairieland Bancorp Employee Stock Ownership Plan and Trust, Bushnell, Illinois; to acquire additional voting shares of Prairieland Bancorp, Inc., and thereby indirectly acquire additional voting shares of Farmers and

Merchants State Bank of Bushnell, both of Bushnell, Illinois.

Board of Governors of the Federal Reserve System, June 4, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–13854 Filed 6–8–10; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 22, 2010.

A. Federal Reserve Bank of New York (Ivan Hurwitz, Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. Industrial and Commercial Bank of China, Limited, Beijing, China; to acquire Strong City Securities, LLC, Newton, New Jersey, and the Private Dealer Services Business Unit of Fortis Securities LLC, New York, New York, and thereby engage in securities brokerage transactions, pursuant to section 225.28 (b)(7)(i), and in riskless principal transactions, pursuant to section 225.28(b)(7)(ii), of Regulation Y.

Board of Governors of the Federal Reserve System, June 4, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–13856 Filed 6–8–10; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. A copy of the agreement is available through the Commission's Web site (*http://www.fmc.gov*) or by contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov*.

Agreement No.: 012042–003.

Title: MOL/ELJSA Slot Exchange Agreement.

Parties: Evergreen Line Joint Service Agreement and Mitsui O.S.K. Lines, Ltd.

Filing Party: Robert B. Yoshitomi, Esq.; Nixon Peabody, LLP; Gas Company Tower; 555 West Fifth Street 46th Floor; Los Angeles, CA 90013.

Synopsis: The amendment revises the amount of space the parties may charter to each other.

By Order of the Federal Maritime Commission.

Dated: June 4, 2010.

Karen V. Gregory,

Secretary.

[FR Doc. 2010–13891 Filed 6–8–10; 8:45 am]

BILLING CODE P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for a license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF)—Ocean Transportation Intermediary (OTI) pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR 515). Notice is also hereby given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a license.

Interested persons may contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Air Sea America, Inc. (NVO), 18220 80th Place South, Kent, WA 98032, *Officers:* Donald W. Jay, President, (Qualifying Individual), Steve C. Spencer, Vice President, Application Type: License Transfer.

Albermarle Ocean Logistics LLC (OFF), 257 Bingham Road, South Mills, NC 27976, *Officer:* Donna J. Freeman, Member, (Qualifying Individual), Application Type: New OFF License.

B.D.G. International, Inc. dba Seagull Express Lines (OFF & NVO), 840 Tollgate Road, Elgin, IL 60124, *Officers:* Lisa V. Walter, Vice President/Secretary, (Qualifying Individual), Bengt R. Anderson, President, Application Type: QI Change.

Cargomar Express, Inc. (OFF & NVO), 6713 NW. 84th Avenue, Miami, FL 33166, *Officer:* Lainder Araujo, President/Secretary, (Qualifying Individual), Application Type: New OFF & NVO License.

InterLogic, Inc. (NVO), 2059 Belgrave Avenue, Huntington Park, CA 90255, *Officer:* Ivan I. Gerdzhikov, President/Secretary/Treasurer, (Qualifying Individual), Application Type: New NVO License.

HD Intercargo, Inc. (NVO), 822 SW. 17th Avenue, Miami, FL 33135, *Officers:* Karen Duarte, Secretary, (Qualifying Individual), Herbeth F. Durarte, President, Application Type: License Transfer.

Kings International Group Inc. dba KIG Solutions (NVO), 2027 Wollam Street, Los Angeles, CA 90065, *Officer:* Jeff Q. Su, President/Treasurer/Secretary, (Qualifying Individual), Application Type: New NVO License.

M–Pact Solutions LLC (OFF & NVO), 4294 Swinnea Road, Memphis, TN 38118, *Officer:* W. Neely Mallory, III, Manager, (Qualifying Individual), Application Type: License Transfer.

S.F. Systems (Group) Ltd. (NVO), 20539 Walnut Drive, Suite F, Walnut, CA 91789, *Officers:* Ting H. Ho, Secretary, (Qualifying Individual), Fan Ho, CEO/CFO Application Type: QI Change.

Tradewings USA Corp. (OFF & NVO), 6301 E. 10th Avenue, Hialeah, FL 33013, *Officers:* Marjorie E. Morales, Operation & Customer Service Manager, (Qualifying Individual), Ian M. Taylor, President, Application Type: New OFF & NVO License.

Dated: June 4, 2010.

Karen V. Gregory,

Secretary.

[FR Doc. 2010–13889 Filed 6–8–10; 8:45 am]

BILLING CODE 6730–01–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 of the waiting period provided by law and the premerger notification rules. 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.

TRANSACTION GRANTED EARLY TERMINATION

ET date	Trans. No.	ET req status	Party name
26–APR–10	20100597	G	PBF Energy Partners L.P.
		G	Valero Energy Corporation.
		G	The Premcor Refining Group Inc.
		G	The Premcor Pipeline Company.
	20100598	G	AEA Investors 2006 Fund L.P.
		G	HMG Holdings, LLC.
		G	HMG Holdings, LLC.
	20100602	G	Vallourec SA.
		G	Lime Rock Partners II, L.P.
		G	Serimax Holdings, S.A.S.
27–APR–10	20100454	G	David Black.
		G	Gannett Co., Inc.
		G	Hawaii Tourism, LLC.
		G	The Courier-Journal, Inc.
		G	Indiana Newspapers, Inc.
		G	Gannett Pacific Corporation, Inc.
		G	Gannett Satellite Information Network, Inc.
	20100588	G	Apple Inc.
		G	Siri, Inc.
		G	Siri, Inc.
28–APR–10	20100606	G	AIG Credit Facility Trust.
		G	Prudential plc.
		G	Prudential Group Limited.
29–APR–10	20100566	G	Armor TPG Holdings LLC.
		G	Armstrong World Industries, Inc. Asbestos Personal Injury.
		G	Armstrong World Industries, Inc.
	20100605	G	Brookfield Special Situations II L.P.
		G	Ainsworth Lumber Co. Ltd.
		G	Ainsworth Lumber Co. Ltd.
	20100609	G	Halliburton Company.
		G	Boots & Coots, Inc.
		G	Boots & Coots, Inc.
30–APR–10	20100612	G	SandRidge Energy, Inc.
		G	Arena Resources, Inc.
		G	Arena Resources, Inc.
	20100614	G	Kinder Morgan Energy Partners, L.P.
		G	KinderHawk Field Services LLC.
		G	KinderHawk Field Services LLC.
	20100616	G	Quantum Resources A1, L.P.
		G	Denbury Resources Inc.
		G	Encore Operating, L.P.
	20100619	G	Rush Enterprises, Inc.
		G	Edward S. Pace.
		G	Lake City International Trucks St. George, Inc.
		G	Lake City Trucks, LLC.
		G	Lake City Idealease, LLC.
		G	Lake City Companies, LLC.
		G	Red Rock Financial Services, LLC.
		G	RPBL Properties, LLC.
		G	BGS Investments, LLC.
		G	BGC Future, LLC.
		G	ESP Future, LLC.
	20100621	G	Mr. Li Shufu.
		G	Ford Motor Company.
		G	Volvo Cars of North America, LLC.
		G	Volvo Car Corporation.
	20100625	G	Banijay Holding S.A.S.
		G	Jonathan B. Murray.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Trans. No.	ET req status	Party name
		G	Bunim-Murray Productions.
		G	M Theory Entertainment, Inc.
		G	Mobility Production, Inc.
	20100626	G	OCP Trust.
		G	United States Infrastructure Holdings, Inc.
		G	United States Infrastructure Holdings, Inc.
03–MAY–10	20100581	G	MHT AG.
		G	GEF Clean Technology Fund, L.P.
		G	Unirac, Inc.
	20100628	G	Warburg Pincus Private Equity X, L.P.
		G	AmRest Holdings SE.
		G	AmRest Holdings SE.
	20100631	G	Apache Corporation.
		G	Mariner Energy, Inc.
		G	Mariner Energy, Inc.
05–MAY–10	20100603	G	Maxim Integrated Products, Inc.
		G	Golden Gate Capital Investment Fund II, L.P.
		G	Teridian Semiconductor Holdings Corporation.
	20100604	G	JANA Master Fund, Ltd.
		G	Questar Corporation.
		G	Questar Corporation.
07–MAY–10	20100608	G	Covenant Health.
		G	Morristown-Hamblen Hospital Association.
		G	Morristown-Hamblen Healthcare System.
	20100630	G	Emera Inc.
		G	Maine & Maritimes Corporation.
		G	Maine & Maritimes Corporation.
	20100636	G	Ceres Global Ag Corp.
		G	Whitebox Commodities Holding Corporation.
		G	Whitebox Commodities Holding Corporation.
	20100637	G	Oak Hill Capital Partners III, L.P.
		G	Code Hennessy & Simmons IV L.P.
		G	The Hiliman Companies, Inc.
	20100639	G	Friedman Fleischer & Lowe Capital Partners, L.P.
		G	Friedman Fleischer & Lowe Capital Partners II, L.P.
		G	KS II Holdings, Inc.
	20100646	G	GTCR Fund IX/A, L.P.
		G	Johnson & Johnson.
		G	Artemis Medical, Inc.
		G	Ethicon Endo-Surgery.
	20100649	G	MDCPVI TU Holdings, LLC.
		G	TransUnion Corp.
		G	TransUnion Corp.
10–MAY–10	20100622	G	H.I.G. Bayside Debt & LBO Fund II, L.P.
		G	FCC Investors, LLC.
		G	First Capital Holdings, Inc.
	20100648	G	Stifel Financial Corp.
		G	Thomas Weisel Partners Group, Inc.
		G	Thomas Weisel Partners Group, Inc.
11–MAY–10	20100624	G	Constellation Energy Group, Inc.
		G	Navasota Funding Corporation.
		G	Navasota Odessa Energy Partners L.P.
		G	Navasota Wharton Energy LLC.
		G	Navasota Odessa Energy LLC.
		G	Navasota Wharton Energy Partners L.P.
	20100643	G	QBE Insurance Group Limited.
		G	The Lightyear Fund, L.P.
		G	Lightyear NAU Acquisition, Inc.
	20100658	G	ZHA FLNG, LLC.
		G	Freeport LNG Development, L.P.
		G	Freeport LNG Development, L.P.
13–MAY–10	20100650	G	Aurora Resurgence Fund (C) L.P.
		G	Alexey Mordashov.
		G	Newco.
14–MAY–10	20090667	G	Agilent Technologies, Inc.
		G	Varian, Inc.
		G	Varian, Inc.
	20100493	G	MSCI Inc.
		G	RiskMetrics Group, Inc.
		G	RiskMetrics Group, Inc.
	20100655	G	Danaher Corporation.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Trans. No.	ET req status	Party name
		G	Thoratec Corporation.
		G	International Technidyne Corporation.
	20100659	G	Theodore J. Leonsis.
		G	Washington Sports & Equipment Limited Partnership.
		G	Washington Sports & Equipment Limited Partnership.
	20100662	G	Oak Hill Capital Partners III, L.P.
		G	Wellspring Capital Partners III, L.P.
		G	Dave & Buster's Holdings, Inc.
	20100663	G	Iconix Brand Group, Inc.
		G	The Edward W. Scripps Trust.
		G	Character Licensing, LLC.
	20100677	G	Thomas H. Lee Equity Fund VI, L.P.
		G	Sterling Financial Corporation.
		G	Sterling Financial Corporation.
	20100678	G	Thomas H. Lee Parallel Fund VI, L.P.
		G	Sterling Financial Corporation.
		G	Sterling Financial Corporation.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Contact Representative, or Renee Hallman, 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. 2010–13725 Filed 6–8–10; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice of a decision to designate a class of employees from the Canoga Avenue Facility, Los Angeles County, California, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On May 14, 2010, the Secretary of HHS designated the following class of employees as an addition to the SEC:

All employees of the Department of Energy, its predecessor agencies, and its contractors and subcontractors who worked at the Canoga Avenue Facility, Los Angeles County, California, from January 1, 1955 through December 31, 1960 for a number of work days aggregating at least 250 work days, occurring either solely under this employment or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

This designation will become effective June 13, 2010, unless Congress provides otherwise prior to the effective date. After this effective date, HHS will publish a notice in the **Federal Register** reporting the addition of this class to the SEC or the result of any provision by Congress regarding the decision by HHS to add the class to the SEC.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Interim Director, Division of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 877–222–7570. Information requests can also be submitted by e-mail to *DCAS@CDC.GOV.*

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2010–13795 Filed 6–8–10; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: "Spreading Techniques To Radically Reduce Antibiotic Resistant Bacteria (Methicillin Resistant Staphylococcus aureus, or MRSA)." In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3520, AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on November 25th, 2009 and allowed 60 days for public comment. No comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by July 9, 2010.

ADDRESSES: Written comments should be submitted to: AHRQ's OMB Desk Officer by fax at (202) 395–6974 (*attention:* AHRQ's desk officer) or by e-mail at *OIRA_submission@omb.eop.gov* (attention: AHRQ's desk officer).

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Dons Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by e-mail at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Spreading Techniques To Radically Reduce Antibiotic Resistant Bacteria (Methicillin Resistant Staphylococcus aureus, or MRSA)

Healthcare Acquired Infections (HAIs) caused almost 100,000 deaths among the 2.1 million people who acquired infections while hospitalized in 2000, and HAI rates have risen relentlessly since then. Alarmingly, 70% of HAIs are due to bacteria that are resistant to commonly used antibiotics, with Methicillin Resistant Staphylococcus aureus (MRSA) being the most rapidly growing, and among the most virulent, pathogens. Resistance is increasing rapidly in all types of hospitals (Huang 2007). Despite evidence that routinely applied, simple interventions do work, most hospitals have failed to make notable progress in reducing MRSA infections. Hospitals in some European countries and select U.S. hospitals, however, have succeeded with impressive results.

Sites that have already achieved dramatic decreases in their MRSA infection rates have done so by implementing precautions to prevent transmission, using system redesign approaches. Further, many hospitals have successfully instituted isolation procedures for patients suspected to be MRSA carriers. In doing so, these hospitals have followed the broadly disseminated guidelines for hand hygiene and contact isolation precautions. This study is a follow up to a recent study implemented in 6 hospital systems in the Indianapolis metropolitan area that used a "MRSA intervention bundle" composed of active surveillance screening, contact isolation precautions, and increased hand hygiene. Preliminary data from that initial study suggest a 60% decrease in MRSA rates in participating intensive care units (ICUs) (Doebbeling, B. Redesigning Hospital Care for Quality and Efficiency Applications of Positive Deviance and Lean in Reducing MRSA. Presentation at AHRQ Annual Meeting, Rockville, MD. Sept 2009).

This project, a case study, will utilize the same guidelines and precautions that were applied in the original study, and will add an innovative feature that will use electronic medical record systems to improve identifying, communicating and tracking MRSA infections among healthcare systems. More specifically, this study has five aims:

(1) Further test the "MRSA intervention bundle" from the original Indianapolis MRSA study, and test the intervention in additional units in the 4 original Indianapolis hospital systems and an additional 3 hospital systems beyond Indianapolis;

(2) Identify and monitor healthcare associated community onset (HACO) MRSA cases and controls who receive care in participating hospitals and affiliated settings, identify strategies to reduce HACO MRSA and demonstrate reduction of HACO MRSA;

(3) Assess the relative effectiveness of various antibiotics in abatement or eradication of MRSA carriage in hospital patients;

(4) Evaluate the effectiveness of the tested implementation strategies and innovations by applying information technology to enable consistent collection, sharing, analysis and reporting of data;

(5) Disseminate findings and promote outreach to target audiences and other stakeholders.

While many secondary data are available for this study, Aims 1 and 2 involve primary data collection. Use of the intervention bundle requires that opinion leaders and front line workers be equipped with techniques used in the reorganization of healthcare delivery to improve health outcomes (Singhal and Greiner, 2007; IHI, 2005). These techniques will assist in identifying goals, implementing the interventions to meet local needs and measuring and feeding back progress on key processes and outcomes to staff and others.

The study also incorporates an additional informatics surveillance system to allow participating hospitals to more efficiently communicate, share and track MRSA infections. This system will save infection control and clinicians' time-for example, by electronically identifying patients with a known history of drug-resistant infections when they first contact a new institution.

This study is being conducted by AHRQ through its contractor, Indiana University and the Regenstrief Institute, pursuant to AHRQ's statutory authority to conduct and support research on healthcare and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of healthcare services and with respect to quality measurement and improvement. 42 U.S.C. 299a(a)(1) and (2).

Method of Collection

To achieve the aims of this project the following data collections will be implemented:

• Electronic medical record data on MRSA infections and screening rates will be collected from an existing and unique healthcare information exchange (Indiana Network for Patient Care or INPC) in the Indianapolis area, and the CDC's National Healthcare Safety Network (Aims 1–5). This data will be used to calculate the rate of MRSA Nosocomial Bloodstream Infections among individuals admitted to the project units at all seven participating hospitals. Screening rates for MRSA at time of admission and at discharge or transfer will also be collected on project units. This data will be used to evaluate the impact of the intervention on infection rates within the participating hospital units.

• Observational data on hand washing will be collected for at least three hours each week per hospital (Aims 1, 2, and 4). Observations will be conducted in 10-minute blocks per patient selected. In total, 18 observations per hospital will be conducted each week. Hand hygiene rates will be based on observing the number of opportunities for hand hygiene and the number of actual times completing hand hygiene. Hand hygiene opportunities include when a provider enters a patient room, moves from a contaminated site to a clean site, helps with an invasive procedure, or leaves a patient room.

• Social Network Analysis (SNA) Questionnaire, will be administered twice, pretest and posttest, to about 75 healthcare workers with direct patient care on project units (Aims 1, 4, and 5). The purpose of this questionnaire is to reveal the communicative patterns of complex groups and teams in order to identify: (1) The strength and frequency of the connections between members, (2) the level of knowledge members have concerning the structure of the network, and (3) the evaluation by members concerning the overall success of the network.

• Culture Questionnaire will also be administered twice, pretest and posttest, to about 75 healthcare workers with direct patient care (Aims 1, 4, and 5). The purpose of this questionnaire is to understand the cultural beliefs, attitudes, and knowledge of the hospital staff.

• Implementation Assessment Interviews of key informants will be conducted with about 4 individuals on the implementation team at each hospital and will be conducted quarterly (Aims 1, 4, and 5). This will allow the project team to understand and monitor how the intervention is proceeding on project units. By monitoring progress, the barriers and facilitators that could affect the project implementation can be identified.

• Patient Healthcare Use Questionnaire will be mailed to a sample of patients from the 7 participating hospitals (Aims 2 and 4). The purpose of this survey is to identify risk factors for developing healthcare associated community onset (HACO) MRSA infections during a 12-month period after discharge from a healthcare facility.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours associated with the hospital's time to participate in this research. Electronic medical record data will be collected weekly from 7 participating hospitals, however only two of these hospitals will use their staff to perform this data collection. Over the course of the project electronic medical record data will be extracted 52 times and each data extraction will take about 10 hours. Observational data will be collected 18 times each week from all participating hospitals, however only 3 hospitals will use their staff to perform the observations. The project will require 52 weeks of observations per hospital and will last 10 minutes per observation.

Both the social network analysis questionnaire and the culture questionnaire will be administered twice, pretest and posttest, to about 75 personnel at each of the 7 hospitals. The social network analysis questionnaire will take about 15 minutes to complete while the culture questionnaire will take 30 minutes. The implementation assessment questionnaire will be administered quarterly to 3 key informants at each hospital and will take about one hour.

The patient healthcare use questionnaire will be completed by 200 patients sampled from the 7 participating hospitals. Each patient will respond once which will require about 15 minutes. The total annualized burden hours for all the associated data collections are estimated to be 2,458.

Exhibit 2 shows the estimated annualized cost burden associated with the respondents' time to participate in this research. The total annual cost burden is estimated to be $77,387.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of hospitals	Number of responses per hospital	Hours per response	Total burden hours
Electronic Medical Record Data Collection	2	52	10	1,040
Observational Data Collection	3	936	10/60	468
Social Network Analysis Questionnaire	7	150	15/60	263
Culture Questionnaire	7	150	30/60	525
Implementation Assessment Interviews	7	16	1	112
Patient Healthcare Use Questionnaire	200	1	15/60	50
Total	226	na	na	2,458

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of hospitals	Total burden hours	Average hourly wage rate *	Total cost burden
Electronic Medical Record Data Collection	2	1040	$30.03	$31,231
Observational Data Collection	3	468	20.98	9,819
Social Network Analysis Questionnaire	7	263	38.28	10,068
Culture Questionnaire	7	525	38.28	20,097
Implementation Assessment Interviews	7	112	45.33	5,077
Patient Healthcare Use Questionnaire	200	50	21.90	1,095
Total	226	2,458	na	77,387

* Based upon the mean of the average wages for Nursing Care Providers ($30.03), Primary Care Physicians ($84.97), Allied Health Providers ($20.98), Administrators, Chief Executives ($76.23) and All Workers ($21.90); National Compensation Survey: Occupational wages in the United States May 2008, "U.S. Department of Labor, Bureau of Labor Statistics."

Estimated Annual Costs to the Federal Government

Exhibit 3 shows the total and annualized cost of this project to the Federal Government over a two-year period. The total cost of this project is $1.8 million which includes $785,000 for project development, $70,000 for data collection activities, $235,000 for data analysis, $125,000 for publication of the results, $170,000 for project management and $415,000 for overhead costs.

EXHIBIT 3—ESTIMATED TOTAL AND ANNUALIZED COST

Cost component	Total cost	Annualized cost
Project Development	$785,000	$262,000
Data Collection Activities	70,000	35,000
Data Processing and Analysis	235,000	78,000
Publication of Results	125,000	125,000
Project Management	170,000	57,000
Overhead	415,000	138,000

EXHIBIT 3—ESTIMATED TOTAL AND ANNUALIZED COST—Continued

Cost component	Total cost	Annualized cost
Total	1,800,000	900,000

Request for Comments

In accordance with the above-cited Paperwork Reduction Act legislation, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ healthcare research and healthcare information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: May 28, 2010.

Carolyn M. Clancy,

Director.

[FR Doc. 2010–13728 Filed 6–8–10; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0019]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; General Licensing Provisions: Biologics License Application, Changes to an Approved Application, Labeling, Revocation and Suspension, Postmarketing Studies Status Reports, and Forms FDA 356h and 2567

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 9, 2010.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or e-mailed to *oira_submission@omb.eop.gov*. All comments should be identified with the OMB control number 0910–0338. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Berbakos, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3792, *Elizabeth.Berbakos@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; General Licensing Provisions: Biologics License Application, Changes to an Approved Application, Labeling, Revocation and Suspension, Postmarketing Studies Status Reports, and Forms FDA 356h and 2567 (OMB Control Number 0910–0338)—Extension

Under Section 351 of the Public Health Services Act (the PHS Act) (42 U.S.C. 262), manufacturers of biological products must submit a license application for FDA review and approval before marketing a biological product in interstate commerce. Licenses may be issued only upon showing that the establishment and the products for which a license is desired meets standards prescribed in regulations designed to ensure the continued safety, purity, and potency of such products. All such licenses are issued, suspended, and revoked as prescribed by regulations in part 601 (21 CFR Part 601).

Section 130(a) of the Food and Drug Administration Modernization Act (Public Law 105–115) amended the Federal Food, Drug, and Cosmetic Act (the act) by adding a new provision (section 506B of the act (21 U.S.C. 356b)) requiring reports of postmarketing studies for approved human drugs and licensed biological products. Section 506B of the act provides FDA with additional authority to monitor the progress of postmarketing studies that applicants have made a commitment to conduct and requires the agency to make publicly available information that pertains to the status of these studies. Under section 506B(a) of the act, applicants that have committed to conduct a postmarketing study for an approved human drug or licensed biological product must submit to FDA a status report of the progress of the study or the reasons for the failure of the applicant to conduct the study. This report must be submitted within 1 year after the U.S. approval of the application and then annually until the study is completed or terminated.

A summary of additional collection of information requirements follows.

Section 601.2(a) requires a manufacturer of a biological product to submit an application on forms prescribed for such purposes with accompanying data and information, including certain labeling information, to FDA for approval to market a product in interstate commerce. The container and package labeling requirements are provided under §§ 610.60 through 610.65. The estimate for these regulations is included in the estimate under § 601.2(a) in table 1 of this document.

Section 601.5(a) requires a manufacturer to submit to FDA notice of its intention to discontinue manufacture of a product or all products. Section 601.6(a) requires the manufacturer to notify selling agents and distributors upon suspension of its license, and provide FDA of such notification.

Section 601.12 (a)(2) requires, generally, that the holder of an approved BLA must assess the effects of a manufacturing change before distributing a biological product made with the change. Section 601.12(a)(4) requires, generally, that the applicant

must promptly revise all promotional labeling and advertising to make it consistent with any labeling changes implemented. Section 601.12(a)(5) requires the applicant to include a list of all changes contained in the supplement or annual report; for supplements, this list must be provided in the cover letter. The burden estimates for § 601.12(a)(2) are included in the estimates for supplements (§§ 601.12(b) and (c)) and annual reports (§ 601.12(d)). The burden estimates for § 601.12(a)(4) are included in the estimates under 601.12(f)(4) in table 1 of this document.

Sections 601.12(b)(1) and (b)(3), (c)(1) and (c)(3), and (c)(5), and (d)(1) and (d)(3) require applicants to follow specific procedures to submit information to FDA of any changes, in the product, production process, quality controls, equipment, facilities, or responsible personnel established in an approved license application. The appropriate procedure depends on the potential for the change to have a substantial, moderate, or minimal adverse effect on the identity, strength, quality, purity, or potency of the products as they may relate to the safety or effectiveness of the product. Under § 601.12(b)(4), an applicant may ask FDA to expedite its review of a supplement for public health reasons or if a delay in making the change described in it would impose an extraordinary hardship of the applicant. The burden estimate for § 601.12(b) (4) is minimal and included in the estimate under § 601.12(b)(1) and (b)(3) in table 1 of this document.

Section 601.12(e) requires applicants to submit a protocol, or change to a protocol, as a supplement requiring FDA approval before distributing the product. Section 601.12(f)(1), (f)(2), and (f)(3) requires applicants to follow specific procedures to report certain labeling changes to FDA. Section 601.12(f)(4) requires applicants to report to FDA advertising and promotional labeling and any changes.

Under section 601.14, the content of labeling required in § 201.100(d)(3) must be in electronic format and in a form that FDA can process, review, and archive. This requirement is in addition to the provisions of §§ 601.2(a) and 601.12(f). The burden estimate for § 601.14 is minimal and included in the estimate under §§ 601.2(a) (BLAs) and 601.12(f)(1), (f)(2), and (f)(3) (labeling supplements and annual reports) in table 1 of this document.

Section 601.45 requires applicants of biological products for serious or life-threatening illnesses to submit to the agency for consideration, during the pre-approval review period, copies of all promotional materials, including promotional labeling as well as advertisements.

In addition to §§ 601.2 and 601.12, there are other regulations in 21 CFR parts 640, 660, and 680 that relate to information to be submitted in a license application or supplement for certain blood or allergenic products as follows: §§ 640.6, 640.17, 640.21(c), 640.22(c), 640.25(c), 640.56(c), 640.64(c), 640.74(a), and (b)(2), 660.51(a)(4), 680.1(b)(2)(iii), and 680.1(d). In table 1 of this document, the burden associated with the information collection requirements in these regulations is included in the burden estimate for §§ 601.2 and/or 601.12. A regulation may be listed under more than one subsection of § 601.12 due to the type of category under which a change to an approved application may be submitted.

There are also additional container and/or package labeling requirements for certain licensed biological products including: § 640.70(a) for Source Plasma; § 640.74(b)(3) and (4) for Source Plasma Liquid; § 640.84(a) and (c) for Albumin; § 640.94(a) for Plasma Protein Fraction; § 660.2(c) for Antibody to Hepatitis B Surface Antigen; § 660.28(a), (b), and (c) for Blood Grouping Reagent; § 660.35(a), (c through g), and (i through m) for Reagent Red Blood Cells; § 660.45 for Hepatitis B Surface Antigen; and § 660.55(a) and (b) for Anti-Human Globulin. The burden associated with the additional labeling requirements for submission of a license application for these certain biological products is minimal because the majority of the burden is associated with the requirements under §§ 610.60 through 610.65 or § 809.10. Therefore, the burden estimates for these regulations are included in the estimate under §§ 610.60 through 610.65 in table 1 of this document. The burden estimates associated with § 809.10 are approved under OMB Control No. 0910–0485.

Section 601.25(b) requests interested persons to submit, for review and evaluation by an advisory review panel, published and unpublished data and information pertinent to a designated category of biological products that have been licensed prior to July 1, 1972. Section 601.26(f) requires that licensees submit to FDA a written statement intended to show that studies adequate and appropriate to resolve the questions raised about a biological product have been undertaken for a product if designated as requiring further study under the reclassification procedures. Under § 601.25(b), FDA estimates no PRA burden for this regulation, and therefore this regulation is not included in table 1 of this document. Under section 601.26(f), FDA estimates no burden for this regulation since there are no products designated to require further study and none are predicted in the future. However, FDA is using an estimate of 1 for calculation purposes. Based on the possible reclassification of a product, the labeling for the product may need to be revised, or a manufacturer, on its own initiative, may deem it necessary for further study. As a result, any changes to product labeling would be reported under the appropriate subsection of § 601.12.

Section 601.27(a) requires that applications for new biological products contain data that are adequate to assess the safety and effectiveness of the biological product for the claimed indications in pediatric subpopulations, and to support dosing and administration information. Section 601.27(b) provides that an applicant may request a deferred submission of some or all assessments of safety and effectiveness required under § 601.27(a) until after licensing the product for use in adults. Section 601.27(c) provides that an applicant may request a full or partial waiver of the requirements under § 601.27(a) with adequate justification. The burden estimates for § 601.27(a) are included in the burden estimate under § 601.2(a) in table 1 of this document since these regulations deal with information to be provided in an application.

Section 601.28 requires sponsors of licensed biological products to submit the information in § 601.28(a), (b), and (c) to the Center for Biologics Evaluation and Research (CBER) or Center for Drug Evaluation and Research (CDER) each year, within 60 days of the anniversary date of approval of the license. Section 601.28(a) requires sponsors to submit to FDA a brief summary stating whether labeling supplements for pediatric use have been submitted and whether new studies in the pediatric population to support appropriate labeling for the pediatric population have been initiated. Section 601.28(b) requires sponsors to submit to FDA an analysis of available safety and efficacy data in the pediatric population and changes proposed in the labeling based on this information. Section 601.28(c) requires sponsors to submit to FDA a statement on the current status of any postmarketing studies in the pediatric population performed by, on or behalf of, the applicant. If the postmarketing studies were required or agreed to, the status of these studies is to be reported under § 601.70 rather then under this section.

Sections 601.33 through 601.35 clarify the information to be submitted in an application to FDA to evaluate the safety and effectiveness of in vivo radiopharmaceuticals. The burden estimates for §§ 601.33 through 601.35 are included in the burden estimate under § 601.2(a) in table 1 of this document since these regulations deal with information to be provided in an application.

Section 601.70 (b) requires each applicant of a licensed biological product to submit annually a report to FDA on the status of postmarketing studies for each approved product application. Each annual postmarketing status report must be accompanied by a completed transmittal Form FDA 2252 (Form FDA 2252 approved under OMB No. 0910–0001). Under § 601.70(d), two copies of the annual report shall be submitted to FDA.

Section 601.91 through 601.94 concerns biological products for which human efficacy studies are not ethical or feasible. Section 601.91(b)(3) requires applicants to prepare and provide labeling with relevant information to patient or potential patient for biological products approved under the subpart when human efficacy studies are not ethical or feasible (or based on evidence of effectiveness from studies in animals). Section 601.93 provides that biological products approved under this subpart are subject to the postmarketing recordkeeping and safety reporting applicable to all approved biological products. Section 601.94 requires applicants under this subpart to submit to the agency for consideration during preapproval review period copies of all promotional materials including promotional labeling as well as advertisements.

Under § 601.93, any potential postmarketing reports and/or recordkeeping burdens would be included under the adverse experience reporting (AER) requirements under 21 CFR part 600 (OMB Control No. 0910–0308). Therefore, any burdens associated with these requirements would be reported under the AER information collection requirements (OMB Control No. 0910–0308).

Section 610.9(a) requires the applicant to present certain information, in the form of a license application or supplement to the application, for a modification of any particular test method or manufacturing process or the conditions which it is conducted under the biologics regulations. The burden estimate for § 610.9(a) is included in the estimate under §§ 601.2(a) and 601.12(b) and (c) in table 1 of this document.

Section 610.11(g)(2) provides that a manufacturer of certain biological products may request an exemption from the general safety test (GST) requirements contained in this subpart. Under § 610.11(g)(2), FDA requires only those manufacturers of biological products requesting an exemption from the GST to submit additional information as part of a license application or supplement to an approved license application. Therefore, the burden estimate for § 610.11(g)(2) is included in the estimate under §§ 601.2(a) and 601.12(b) in table 1 of this document.

Section 640.120 requires licensed establishments to submit a request for an exception or alternative to any requirement in the biologics regulations regarding blood, blood components, or blood products. A request for an exception or alternative must be submitted in accordance with § 601.12; therefore the burden estimate for § 640.120 is included in the estimate under § 601.12(b) in table 1 of this document.

Section 680.1(c) requires manufacturers to update annually their license file with the list of source materials and the suppliers of the materials. Section 680.1(b)(3)(iv) requires manufacturers to notify FDA when certain diseases are detected in source materials.

Sections 600.15(b) and 610.53(d) require the submission of a request for an exemption or modification regarding the temperature requirements during shipment and from dating periods, respectively, for certain biological products. Section 606.110(b) requires the submission of a request for approval to perform plasmapheresis of donors who do not meet certain donor requirements for the collection of plasma containing rare antibodies. Under §§ 600.15(b), 610.53(d), and 606.110(b), a request for an exemption or modification to the requirements would be submitted as a supplement. Therefore, the burden hours for any submissions under §§ 600.15(b), 610.53(d), and 606.110(b) are included in the estimates under § 601.12(b) in table 1 of this document.

In July 1997, FDA revised Form FDA 356h "Application to Market a New Drug, Biologic, or an Antibiotic Drug for Human Use" to harmonize application procedures between CBER and CDER. The application form serves primarily as a checklist for firms to gather and submit certain information to FDA. The checklist helps to ensure that the application is complete and contains all the necessary information, so that delays due to lack of information may be eliminated. The form provides key information to FDA for efficient handling and distribution to the appropriate staff for review. The estimated burden hours for nonbiological product submissions to CDER using FDA Form 356h are approved under OMB Control No. 0910–0001.

Form FDA 2567 "Transmittal of Labels and Circulars" is used by manufacturers of licensed biological products to submit labeling (e.g., circulars, package labels, container labels, etc.) and labeling changes for FDA review and approval. The labeling information is submitted with the form for license applications, supplements, or as part of an annual report. Form FDA 2567 is also used for the transmission of advertisements and promotional labeling. Form FDA 2567 serves as an easy guide to assure that the manufacturer has provided the information required for expeditious handling of their labeling by CBER. For advertisements and promotional labeling, manufacturers of licensed biological products may submit to CBER either Form FDA 2567 or 2253. Form FDA 2253 was previously used only by drug manufacturers regulated by CDER. In August of 1998, FDA revised and harmonized Form FDA 2253 so the form may be used to transmit specimens of promotional labeling and advertisements for biological products as well as for prescription drugs and antibiotics. The revised, harmonized form updates the information about the types of promotional materials and the codes that are used to clarify the type of advertisement or labeling submitted; clarifies the intended audience for the advertisements or promotional labeling (e.g., consumers, professionals, news services); and helps ensure that the submission is complete. Form FDA 2253 is approved under OMB Control No. 0910–0001.

Under table 1 of this document, the number of respondents is based on the estimated annual number of manufacturers that submitted the required information to FDA or the number of submissions FDA received in fiscal year (FY) 2008. Based on information obtained from FDA's database systems, there are an estimated 301 licensed biologics manufacturers. The total annual responses are based on the estimated number of submissions (i.e., license applications, labeling and other supplements, protocols, advertising and promotional labeling, notifications) for a particular product received annually by FDA. Based on previous estimates, the rate of submissions is not expected to change

significantly in the next few years. The hours per response are based on information provided by industry and past FDA experience with the various submissions or notifications. The hours per response include the time estimated to prepare the various submissions or notifications to FDA, and, as applicable, the time required to fill out the appropriate form and collate the documentation. Additional information regarding these estimates is provided below as necessary.

Under §§ 601.2 and 601.12, the estimated hours per response are based on the average number of hours to submit the various submissions. The estimated average number of hours is based on the range of hours to complete a very basic application or supplement and a complex application or supplement.

Under section 601.6(a), the total annual responses are based on FDA estimates that establishments may notify an average of 20 selling agents and distributors of such suspension, and provide FDA of such notification. The number of respondents is based on the estimated annual number of suspensions of a biologic license.

Under §§ 601.12(f)(4) and 601.45, manufacturers of biological products may use either Form FDA 2567 or Form FDA 2253 to submit advertising and promotional labeling. Based on information obtained from FDA's database system, there were an estimated 4,452 submissions of advertising and promotional labeling. FDA estimates that approximately 15% of those submissions were received with Form FDA 2567 and 85% were received with Form 2253.

Under §§ 601.28 and 601.70(b), FDA estimates that it takes an applicant approximately 24 hours (8 hours per study x 3 studies) annually to gather, complete, and submit the appropriate information for each postmarketing status report (approximately two to four studies per report) and the accompanied transmittal Form FDA 2252. Included in these 24 hours is the time necessary to prepare and submit two copies of the annual progress report of postmarketing studies to FDA under § 601.70(d).

Under §§ 601.91 through 601.94, FDA expects to receive very few applications for these products; however, for calculation purposes, FDA is estimating the annual submission of one application. Under §§ 601.93(b)(3) and 601.94, FDA estimates 240 hours for a manufacturer of a new biological product to develop patient labeling, and to submit the appropriate information and promotional labeling to FDA. The majority of the burden for developing the patient labeling is included under the reporting requirements for § 601.94, therefore minimal burden is calculated for providing the guide to patients under § 601.91(b)(3).

There were a total of 5,338 amendments to an unapproved application or supplement and resubmissions submitted using Form FDA 356h.

In the **Federal Register** of January 26, 2010 (75 FR 4081), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received on this information collection request.

FDA estimates the burden of this collection of information as follows:

TABLE 1. — ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	Form FDA No.	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
601.2(a)[2], 610.60 through 610.65[3]	2567/356h	23	2	46	860	39,560
601.5(a)	NA	11	3	33	20 minutes	11
601.6(a)	NA	1	21	21	20 minutes	7
601.12(a)(5)	NA	802	9	7,218	1	7,218
601.12(b)(1)/(b)(3)/(e)[4]	356h [2]	166	5	830	80	66,400
601.12(c)(1)/(c)(3)[5]	356h [2]	141	5	705	50	35,250
601.12(c)(5)	356h [2]	42	5	210	50	10,500
601.12(d)(1)/(d)(3)/(f)(3)[7]	356h [2]	246	3	738	23	16,974
601.12(f)(1)[6]	2567	112	2	224	40	8,960
601.12(f)(2)[6]	2567	53	3	159	20	3,180
601.12(f)(4)/601.45	2567/2253	42	106	4,452	10	44,520
601.26(f)	NA	1	1	1	1	1
601.27(b)	NA	6	1	6	24	144
601.27(c)	NA	10	1	10	8	80
601.70(b) and (d)/601.28	2252	39	2	78	24	1,872
601.91(b)(3), 601.94	NA	1	1	1	240	240
680.1(c)	NA	9	1	9	2	18
680.1(b)(3)(iv)	NA	1	1	1	2	2

TABLE 1. — ESTIMATED ANNUAL REPORTING BURDEN[1]—Continued

21 CFR Section	Form FDA No.	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Amendments/Resubmissions	356h	314	17	5,338	20	106,760
TOTAL						341,697

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] The reporting requirements under §§ 610.9(a), 601.14, 601.27(a), 601.33, 601.34, 601.35, 610.11(g)(2), 640.17, 640.25(c), 640.56(c), 640.74(b)(2), 660.51(a)(4), and 680.1(b)(2)(iii) are included in the estimate under § 601.2(a).
[3] The reporting requirements under §§ 640.70(a), 640.74(b)(3) and (4), 640.84(a) and (c), 640.94(a), 660.2(c), 660.28(a), (b), and (c), 660.35(a), (c through g), and (i through m), 660.45, and 660.55(a) and (b) are included under §§ 610.60 through 610.65.
[4] The reporting requirements under §§ 610.9(a), 600.15(b), 610.11(g)(2), 610.53(d), 606.110(b), 640.6, 640.17, 640.21(c), 640.22(c), 640.25(c), 640.56(c), 640.64(c), 640.74(a) and (b)(2), 640.120, and 680.1(d) are included in the estimate under § 601.12(b).
[5] The reporting requirements under §§ 610.9(a), 640.17, 640.25(c), 640.56(c), and 640.74(b)(2) are included in the estimate under § 601.12(c).
[6] The reporting requirement under § 601.14 is included in the estimate under § 601.12(f)(1) and (f)(2).
[7] The reporting requirement under § 601.14 is included in the estimate under § 601.12(f)(3).

Under table 2 of this document, the estimated recordkeeping burden of 1 hour is based on previous estimates for the recordkeeping requirements associated with the AER (Adverse Event Reports) system.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
601.91(b)(2)(iii)	1	1	1	1	1

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 2, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–13815 Filed 6–8–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Discretionary Grant Program

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice of Noncompetitive Program Extension Supplemental Awards.

SUMMARY: HRSA will be issuing non-competitive supplemental funding under the Maternal Child and Health Bureau's Family to Family Health Information Centers Program. This will provide feasible time for the Maternal and Child Health Bureau (MCHB) to align fiscal resources and programmatic goals as outlined in changes that emerged as a result of enactment of the Patient Protection and Affordable Care Act (Pub. L. 111–148) with the least disruption to the States, communities, and constituencies that currently receive assistance and services from these grantees.

SUPPLEMENTARY INFORMATION:

Intended Recipients of the Award: The 30 incumbent grantees (*see* list below).

Amount of the Non-Competitive Supplemental Funding: $97,500 per grantee.

Authority: Section 501(c)(1) of the Social Security Act, as amended.

CFDA Number: 93.110.

Project Period: June 1, 2010 through May 31, 2011 for a total of 12 months.

Justification for the Exception to Competition

The program provides grants to family-run/staffed organizations to ensure families of children with special health care needs have access to adequate information about health and community resources to allow informed decisions around their children's health care. Family to Family Health Information Centers (F2F HICs) were originally authorized under the Family Opportunity Act as part of the Budget Deficit Reduction Act of 2005; Pub. L. 109–171. Congress specified that there be a family-run/staffed center in each State and the District of Columbia by June 2009. These centers, among other tasks, were to assist families of children with special health care needs to make informed choices about health care in order to promote good treatment decisions, cost effectiveness and improved health outcomes by providing information and educational opportunities for families, their health professionals, schools, and other appropriate entities. Awards were staggered based upon available funding with 30 grantees awarded in 2007 with project periods ending May 31, 2010. As the end of their project period quickly approached and continued funding was not provided in the President's Budget for fiscal year (FY) 2010, MCHB prepared for closeout of the program.

Section 5507 of the Patient Protection and Affordable Care Act (the Affordable Care Act) extended the F2F HICs through FY 2012. Therefore, the MCHB will extend the project periods of the 30 aforementioned grants into FY 2011. This will provide sufficient fiscal resources to continue programmatic activities as outlined in legislation with the least disruption to the States, communities, and the MCHB constituencies that currently receive assistance and services from these grantees. The MCHB will also delay the competition for these grants until FY 2011 to ensure continuity of funding for all eligible entities, with no eligible entity being adversely impacted by the extension.

FOR FURTHER INFORMATION CONTACT: LaQuanta Person, Project Officer, Integrated Services Branch, Division of Services for Children with Special Health Needs, Maternal and Child Health Bureau, Health Resources and Services Administration, 5600 Fishers Lane, Room 18A–18, Rockville, MD 20857; 301.443.2370; *lperson@hrsa.gov.*

MATERNAL AND CHILD HEALTH BUREAU SELECTED GRANT PROGRAMS

[Extensions with funding]

Grantee/organization name	State	FY 2009 authorized funding level	Revised project end date
Raising Special Kids	AZ	$95,700	31–May–11.
Support for Families of Children w/Disabilities	CA	95,700	31–May–11.
Family Voices of District of Columbia, Inc.	DC	95,700	31–May–11.
Family Institute for Family Involvement	FL	95,700	31–May–11.
Parent to Parent of Georgia, Inc.	GA	95,700	31–May–11.
Hawaii Pediatric Association Research & Education Foundation	HI	95,700	31–May–11.
The Arc of Illinois	IL	95,700	31–May–11.
About Special Kids, Inc.	IN	95,700	31–May–11.
Bayou Land Families Helping Families	LA	95,700	31–May–11.
Federation for Children With Special Needs	MA	95,700	31–May–11.
The Parent's Place of MD	MD	95,700	31–May–11.
Maine Parent Federation	ME	95,700	31–May–11.
Pacer Center Inc.	MN	95,700	31–May–11.
University of Southern Mississippi	MS	95,700	31–May–11.
Exceptional Children's Assistance Center	NC	95,700	31–May–11.
Family Voices of North Dakota, Inc	ND	95,700	31–May–11.
PTI Nebraska	NE	95,700	31–May–11.
Statewide Parent Advocacy Network of New Jersey	NJ	95,700	31–May–11.
Parents Reaching Out To Help	NM	95,700	31–May–11.
Family TIES of Nevada, Inc	NV	95,700	31–May–11.
Parent to Parent of NYS	NY	95,700	31–May–11.
Oregon Family Support Network	OR	95,700	31–May–11.
Parent Education & Advocacy Leadership Center	PA	95,700	31–May–11.
Rhode Island Parent Information Network, Inc.	RI	95,700	31–May–11.
South Dakota Parent Connection, Inc.	SD	95,700	31–May–11.
Tennessee Disability Coalition	TN	95,700	31–May–11.
Texas Parent to Parent	TX	95,700	31–May–11.
Utah Parent Center	UT	95,700	31–May–11.
Parent to Parent of Vermont	VT	95,700	31–May–11.
The Arc Wisconsin Disability Association	WI	95,700	31–May–11.

Dated: June 3, 2010.

Mary K. Wakefield,

Administrator.

[FR Doc. 2010–13788 Filed 6–8–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–D–0277]

Draft Guidance for Industry: Compliance With Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "Draft Guidance for Industry: Compliance with Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco To Protect Children and Adolescents." The draft guidance is intended to help small entities comply with the final regulations restricting the sale and distribution of cigarettes and smokeless tobacco in order to protect children and adolescents.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by July 31, 2010.

ADDRESSES: The draft guidance for industry entitled "Draft Guidance for Industry: Compliance with Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco To Protect Children and Adolescents" is available on the Internet at *http://www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/default.htm*, or a paper copy may be ordered free of charge by calling 1–877–287–1373.

Submit electronic comments to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Kathleen K. Quinn, Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850–3229, 240–276–1717, *Kathleen.Quinn@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (Public Law 111–31; 123 Stat. 1776) was enacted on June 22, 2009, amending the Federal Food, Drug, and Cosmetic Act (FFDCA) and providing FDA with the authority to regulate tobacco products. Section 102 of the Tobacco Control Act requires FDA to publish final regulations regarding cigarettes and smokeless tobacco which are identical in their provisions to the regulations promulgated by FDA in 1996 (1996 final regulations) on August 28, 1996 (61 FR 44396), with certain specified exceptions. In the **Federal Register** of March 19, 2010 (75 FR 13225), FDA published its final regulations entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco To

Protect Children and Adolescents," at 21 CFR part 1140. The final regulations apply to manufacturers, distributors, and retailers who make, distribute, or sell cigarettes or smokeless tobacco products.

Beginning on June 22, 2010, these Federal regulations will prohibit retailers from selling cigarettes, cigarette tobacco, or smokeless tobacco to persons under the age of 18, and will require retailers to verify the age of all customers under the age of 27 by checking a photographic identification that includes the bearer's date of birth.

FDA is announcing the availability of a draft guidance document, which is intended to help small businesses comply with the requirements of the new regulations. FDA is soliciting comments on the draft guidance document and may amend the guidance document periodically as a result of comments received.

II. Significance of Guidance

FDA is issuing this draft guidance document consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on "Compliance with Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco To Protect Children and Adolescents." It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Comments

The draft guidance is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

An electronic version of the guidance document is available on the Internet at *http://www.regulations.gov* and *http://www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/default.htm*.

Dated: June 7, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–13922 Filed 6–7–10; 11:15 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Office of Public Health Support; Division of Planning, Evaluation & Research Native American Research Centers for Health (NARCH) V Evidence-Based Interventions for Tribal Communities Against AIDS and STDs

Announcement Type: Competitive Supplements.

Funding Announcement Number: HHS–2010–IHS–NARCH–0001.

Catalog of Federal Domestic Assistance Number: 93.933.

Key Dates

Application Deadline Date: June 30, 2010.

Review Date: July 15, 2010.

Earliest Anticipated Start Date: September 1, 2010.

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) is accepting competitive supplemental grant applications from existing Native American Research Centers for Health (NARCH) V grantees to establish and test Evidence-Based Interventions for Tribal Communities Against Acquired Immune Deficiency Syndrome (AIDS) and sexually transmitted diseases (STDs). This program is authorized under: the Snyder Act, 25 U.S.C. 13, the Public Health Service Act, 42 U.S.C. 241 as amended, and the Indian Health Care Improvement Act, 25 U.S.C. 1602(a)(b)(16). This program is described in the Catalog of Federal Domestic Assistance under 93.933.

Background

The NARCH V program supports partnerships between Federally recognized American Indian and Alaska Native (AI/AN) Tribes or Tribal organizations (including national and area Indian health boards, and Tribal colleges meeting the definition of a Tribal organization as defined by 25 U.S.C. 1603(d) or (e)) and institutions that conduct intensive academic-level biomedical, behavioral and health services research. These partnerships are called Native American Research Centers for Health (NARCH). Due to the complexity of factors contributing to the health and disease of AI/ANs, and to their health disparities compared with other Americans, the collaborative efforts of the agencies of the Department of Health and Human Services (HHS) and the collaboration of academic researchers and AI/AN communities are needed to achieve significant improvements in the health status of AI/AN people. To accomplish this goal, in addition to objectives set by the Tribes, Tribal organizations or Indian health boards, the IHS NARCH program pursues the following program objectives:

To develop a cadre of AI/AN scientists and health professionals—Opportunities are needed to develop more AI/AN scientists and health professionals engaged in research, and to conduct biomedical, clinical, behavioral and health services research that is responsive to the needs of the AI/AN community and the goals of this initiative. Faculty/researchers and students at each proposed NARCH develop investigator-initiated, scientifically meritorious research projects, including pilot research projects, and will be supported through science education projects designed to increase the numbers of, and to improve the research skills of, AI/AN investigators and investigators involved with AI/ANs.

To enhance partnerships and reduce distrust of research by AI/AN communities—Recent community-based participatory research suggests that AI/AN communities can work collaboratively in partnership with health researchers to further the research needs of AI/ANs. Fully utilizing all cultural and scientific knowledge, strengths, and competencies, such partnerships can lead to better understanding of the biological, genetic, behavioral, psychological, cultural, social, and economic factors either promoting or hindering improved health status of AI/ANs, and generate the development and evaluation of interventions to improve their health status. Community distrust of research and researchers will be reduced by offering the Tribe greater control over the research process.

Purpose

The purpose of this opportunity for supplementing the existing NARCH V program is to determine the feasibility of adapting and implementing HIV evidence based interventions (EBI)(s) supported by the CDC for effective use within AI/AN communities, and to contribute to, and document, a successful adaption and implementation

in this new population and setting. Baseline and ongoing data will be collected and analyzed to help determine future effectiveness of the adapted EBI(s).

While new treatments continue to offer hope for individuals infected with HIV, behavioral interventions shown to reduce HIV risk behaviors remain one of the most powerful tools in curbing the AIDS epidemic. Health departments (HDs) and community-based organizations (CBOs) increasingly are required to implement EBI(s) or public health strategies (PHSs) that have been shown to be efficacious for HIV prevention in rigorous controlled trials. Unfortunately, the development of new EBI(s) is a resource-intensive process that has not progressed as quickly as the epidemiology of the disease. One method to accelerate this process is by adapting existing EBI(s) supported by CDC's previous Prevention Research Synthesis (PRS), Replicating Effective Programs (REP), and Diffusion of Effective Behavioral Interventions (DEBI) projects for new populations or settings. This announcement responds to concerns from the field and many AI/AN communities that existing EBI(s) do not address the focused HIV prevention needs of AI/ANs due, at least in part, to lack of cultural relevance and to the absence of effectiveness data for these interventions with respect to Tribal communities.

These supplements will facilitate the creation and testing of culturally adapted and evidence based interventions against AIDS and STDs. The methodology of Tribal or community based participatory research (T/CBPR) is expected to be the most effective approach to selecting, adapting and testing an existing EBI for deployment and maximal effectiveness in a given Tribal community. Effective T/CBPR partnerships can take years to develop, but the need for culturally relevant EBI(s) is urgent. Fortunately, a number of such partnerships have already been created under the NARCH program. These partnerships are an already existing T/CBPR infrastructure whose core purposes include the ability to help the Tribes respond to urgent research needs and opportunities, such as the object of this announcement.

Grantees will test the use of a T/CBPR adaptation model to assist agencies with the process of tailoring an existing prevention intervention, previously shown to be effective and catalogued by CDC, for use in different small or hard-to-access AI/AN population at risk for HIV infection. When adapting the EBI, the core elements that contributed to the efficacy of the original intervention will be maintained, which will increase efficiency of adaptation. Each grantee's ability to successfully adapt, tailor, and implement their chosen intervention will be monitored and evaluated, and all operational processes will be documented.

The nature of these projects will require collaboration to: (1) Coordinate activities with the IHS Research Program and IHS National HIV Program and (2) acquire technical assistance from the IHS Research Program and the Capacity Building Branch (CBB) of the Division of HIV/AIDS Prevention (DHAP) at CDC.

Proposed activities that cover large populations and/or geographical areas that do not necessarily correspond with current IHS administrative areas are allowed. In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under: *1. Recipient Activities,* and HHS will be responsible for conducting activities under *2. HHS Activities.*

1. Recipient Activities

- Conduct targeted research and literature review on the question of whether any of the existing EBI supported by CDC can be successfully adapted to an AI/AN population at risk.
- Identify the unique risk behaviors and contextual factors that lead to an increased risk of HIV acquisition or transmission.
- Conduct pre-implementation phases of assessment, adaptation, tailoring of intervention, and IRB submission.
- Assess EBI(s) to determine their compatibility with the needs of the community and IHS capacity and resources. No EBI(s) are capable of addressing all of the identified risk behaviors and contextual factors in the selected population. NARCH partners will select those most suitable for adaptation and implementation (*i.e.,* the EBI that can be adapted to be most responsive to identified risk behaviors, contextual factors, and circumstances).
- Review adaptations to determine cultural proficiency.
- Conduct process evaluation to document an evidence base for the adaptations.
- Adapt and tailor selected interventions to meet the needs of the AI/AN population identified.
- Implement the adapted and tailored interventions.
- Evaluate the utility and effectiveness of the adaptation and tailoring of the intervention.
- Evaluate the effectiveness of the adapted and tailored intervention. Compare the magnitude of behavioral/biologic change in the original and adapted interventions using measures from the original intervention with as little modification as possible (*i.e.* unprotected sex, condom negotiation, numbers of sex partners, etc).
- Collaborate with IHS national programs (IHS Research Program and IHS National HIV Program) per quarterly meetings (including use of telecommunications) and by providing data on a bi-annual basis, identifying and documenting best practices for developing and implementing interventions.
- Document the operational processes used during adaptation, tailoring, implementation and evaluation.
- Report to IHS Research Program. A three page mid-year progress report and no more than a ten-page summary annual assessment and evaluation at the end of each project year. The report should establish the impact and outcomes of various methods of adapting, tailoring and implementing the intervention.

2. HHS Activities (IHS Research and HIV Programs and CDC)

- Provide funded NARCH with ongoing consultation and technical assistance to plan, implement, and evaluate each component of the comprehensive program as described under *Recipient Activities* above. Consultation and technical assistance will include, but not be limited to, the following areas:

(a) CDC will train grantee(s) to deliver the original intervention. Grantees trained in the original intervention will develop an adapted and tailored intervention training curriculum based on the original intervention training included in the REP intervention package. Grantees will train local staff.

(b) Provide oversight and technical assistance throughout adaptation, tailoring, implementation and evaluation. Awardees will implement the adapted intervention tailored to address the AI/AN population and locale.

(c) Analyze Data: Participate in analysis of data gathered from project activities; assist in reporting and disseminating results.

(d) Provide overall operational planning and program management.

- Conduct site visits to assess program progress and mutually resolve problems, as needed.
- Coordinate these activities with all IHS HIV activities on a national basis.
- Coordinate with the CBB of DHAP at CDC to provide technical assistance related to the selection of the

appropriate EBI or PHS, cultural and linguistic adaptation of the intervention and supporting materials, and training of facilitators.

II. Award Information

Type of Awards

Competitive supplemental revisions to existing NARCH V awards.

Estimated Funds Available

The total amount of funding identified for the current fiscal year (FY) 2010 is approximately $1,800,000. Competing and continuation awards issued under this announcement are subject to the availability of funds. In the absence of funding, the agency is under no obligation to make awards funded under this announcement.

Anticipated Number of Awards

Three supplements of $600,000 per grantee are anticipated in FY 2010 under the existing NARCH V awards. Additional NARCH awards may be supplemented, if additional funds become available.

Project Period

Projects will be funded for one annual budget period. There will be yearly continuation applications required. The continuation years will be pending funding and based on the following:

- Satisfactory progress.
- Availability of funds and agency capacity to sustain program(s).
- Continuing need for IHS to support the program (program priorities).

Awardees will be required to submit semi-annual cumulative progress reports, as described within this announcement and existing NARCH V Notices of Grant Award (NoA), as well as the Standard Form (SF) 2590 and a Progress Report, annually and financial statements as required in the PHS Grants Policy Statement, revised 0107. Forms are available at the following Web site *http://grants.nih.gov/grants/funding/2590/2590.htm.* The progress report should provide information about changes in the program and a summary report of any evaluations. These bi-annual reports will be closely monitored by the IHS staff to ensure that the grant is achieving the goals of the Office of HIV/AIDS Policy (OHAP) and the NARCH program.

III. Eligibility Information

1. Eligibility

Eligible applicants are limited to current NARCH grantees with at least two years remaining of their current NARCH project period. Proof of eligibility status will be confirmed by the IHS Research Program. No current grantees other than existing NARCH V grantees are expected to meet this remaining project period requirement.

2. Cost Sharing or Matching

The NARCH Program does not require matching funds or cost sharing.

3. Other Requirements

Letters of intent are not required under this announcement.

IV. Application and Submission Information

1. Obtaining Application Materials

1. The application package and instructions can be requested from the NARCH Program Official, Reyes Building, 801 Thompson Avenue, Rockville, MD 20852 or by e-mail to *narch@ihs.gov.* The National Institutes of Health (NIH) PHS 398 application instructions are available in an interactive format at: *http://grants.nih.gov/grants/funding/phs398/phs398.html.* Applicants must use the currently approved version of the PHS 398. For further assistance contact Mr. Paul Gettys Telephone (301) 443–2114, E-mail: *Paul.Gettys@ihs.gov.* In any instance where the PHS 398 instructions are contradicted by this announcement, the instructions in this announcement must be followed. PHS 398 page limits should be followed as for NIH activity Code R21.

2. Content and Form Application Submission

Mandatory documents for all applicants include:

- Application forms:
- PHS–398 Package *http://grants.nih.gov/grants/funding/phs398/phs398.html;*
- Documentation of current OMB A–133 required Financial Audit, if applicable. Acceptable forms of documentation include:
  - E-mail confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or
  - Face sheets from audit reports. These can be found on the FAC Web site: *http://harvester.census.gov/fac/dissem/accessoptions.html?submit=Retrieve+Records.*
- Disclosure of Lobbying Activities (SF–LLL) (if applicable).

Public Policy Requirements

All Federal-wide public policies apply to IHS grants with exception of the Discrimination policy.

3. Submission Dates and Times

Submit a typed and signed original application, including the Checklist, and five (5) single-sided photocopies of the entire application (including Appendices and supporting documents) in one package to: Division of Grants Operations, Indian Health Service, Reyes Building, 801 Thompson Avenue, TMP 360, Rockville, MD 20852–1627 *Attn:* Mr. Roscoe Brunson, (zip code is unchanged for express/courier services), Telephone: (301) 443–5204 by no later than 5pm EDT on June 30, 2010.

Letters of Intent: Letters of Intent will not be required under this funding opportunity announcement.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

- Pre-award costs are not allowable under this announcement.
- The available funds are inclusive of direct and appropriate indirect costs.
- Only one grant/cooperative agreement will be awarded per applicant.
- IHS will not acknowledge receipt of applications.

6. Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS)

Applicants are required to have a DUNS number to apply for a grant or cooperative agreement from the Federal Government. The DUNS number is a unique nine-digit identification number provided by D&B, which uniquely identifies business entities. The DUNS number is site specific; therefore each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://fedgov.dnb.com/webform* or by phone (866) 705–5711.

V. Application Review Information

Points will be assigned to each evaluation criteria adding up to a total of 100 points. A minimum score of 65 points is required for funding. Points are assigned as follows:

1. Evaluation Criteria

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights assigned to each section are noted in parentheses. The narrative should include all prior years of activity; information for multi-year projects should be included as an appendix (*see* E. "Categorical Budget and Budget Justification") at the end of this section for more information. It should be well organized, succinct, and contain all

information necessary for reviewers to understand the project fully. You are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified research objectives of the grant. Measures of effectiveness must relate to the purpose and goal stated in the "Funding Description" section of this announcement. Measures should include process and outcome information and contain both quantitative and qualitative data that measure the intended outcome. These measures of effectiveness must be submitted with the application and will be an element of evaluation. The goals of this IHS-supported research are to advance the understanding of HIV/AIDS-related behavior and biological systems, improve the control and prevention of HIV/AIDS, and enhance community health and wellness. In the written comments, reviewers will be asked to evaluate the application and the likelihood that the proposed research will have a substantial impact on the pursuit of these goals.

A. Significance (10 Points)

a. Is the proposed selection process of the specific EBI to be implemented justified in terms of AI/AN risk, AI/AN behavior, and HIV or STD epidemiology? Are the proposed interventions and populations realistically matched in terms of behavioral determinants and risk behaviors? Is the applicant's selected AI/AN population either small with high HIV incidence or harder to gain access to (*e.g.* male-to-female transgender, men who have sex with other men, rural communities with high stigma, etc.)? Is the selected population HIV positive? If HIV has not yet been detected in the population, are there existing STD or blood-borne disease problems that suggest a fertile field for HIV dissemination if the virus were to enter the community?

b. If the aims of the application are achieved, how will scientific knowledge in AI/AN be advanced? What will be the effect of these studies on AI/AN communities and what will be the benefits to service providers and/or communities?

c. Define the project target population, identify their unique characteristics, and describe the impact of HIV and/or other STDs or blood-borne diseases on the population.

B. Research Objectives and Approach (40 Points)

Applicants should address the following research objectives in their application:

a. Process of selection, adaptation, tailoring and implementation of the EBI. One potential EBI may be selected to use as a tentative example in the application, to illustrate the approach that is planned by the applicant. However, if used, the example EBI should be justified for the anticipated population, either in terms of relevant theory or based on preliminary, preparatory T/CBPR activity such as meetings with Tribal officials, groups, Community Advisory Boards of the existing NARCH, or focus groups. Use of a specific EBI as an example as described above is not required in the application and is only one of various different ways the applicant may choose to describe their approach. If an example EBI is chosen for use in the application, it will not necessarily be the EBI finally chosen by the grantee's full eventual process if the grant is funded.

b. Refinement of adaptation and tailoring guidance.

c. Research plan should address activities to be conducted over the entire project period. Are the conceptual framework, design, methods, and analyses adequately developed, well-integrated, and appropriate to the aims of the project? Does the applicant acknowledge potential problem areas and consider alternative tactics?

d. How will grantee gain access to and rapidly assess the specific population(s) (*i.e.,* via community planning groups, community advisory boards, focus groups)? Has the applicant used local data to inform the current RFA? Are there existing relationships between the applicant and local/Tribal public health authorities and/or Tribal or IHS medical providers? Is the plan to obtain appropriate Tribal and/or Board approval(s) to test the intervention adequately described?

e. Has the applicant demonstrated how they will establish and maintain collaboration with universities, research partners, IHS national programs, etc.?

f. Has the applicant chosen an adequate sample size and demonstrated access to at least that many members of the target population who are not currently receiving intervention, particularly if the population is small or hard-to-reach?

g. Has the applicant included a relative timeline or action plan for each phase of activities (selection, assessment, adaptation, tailoring, implementation, and evaluation including milestones; costs; development of materials (*i.e.,* adapted and tailored training curriculum, evaluation tools, checklists) and required reports? Absolute timelines and dates will not be required. However, each necessary step should be described, in logical order, to complete the project within the total budget amount allowed ($600,000).

h. Has the applicant demonstrated sufficient understanding of EBI(s) as set forth by the CDC?

i. Describe how the program will ensure that the intervention services and analyses will be culturally sensitive and relevant.

C. Innovation (10 Points)

a. Does the project employ concepts, approaches or methods novel to standard biomedical science?

b. Does the project challenge existing paradigms or develop new methodologies or technologies?

c. Is the target sub-population one that is not typically targeted for behavioral intervention research (*e.g.* AI/AN transgender, AI/AN men who have sex with other men, AI/AN communities, etc)?

D. Project Evaluation and Reporting (20 Points)

a. Does the grantee provide a clear and organized plan for monitoring and evaluating each phase of the project through implementation, and to identify best practices?

b. Has the applicant provided a quality assurance plan that addresses all phases of adaptation, tailoring, implementation and evaluation and included personnel responsible for ensuring quality? Has the applicant provided a plan for documenting process measures including who is responsible, processes to be measured, and sample tools that might be used?

c. Do the outcomes and performance measures described in the evaluation include both quantitative and qualitative approaches?

d. Reporting Requirements. Does application provide a clear and organized plan to strictly adhere to reporting requirements set forth in section VI.4.?

e. Based on the plans for monitoring, evaluation through each phase, and reporting, does the grantee demonstrate obvious understanding of the evaluation and reporting processes and requirements?

E. Organizational Capacity (10 Points)

This section outlines the broader capacity of the organization to complete the project outlined in the work plan. It includes the identification of principal investigator and personnel responsible for completing tasks for successful completion of the project.

a. Describe the ability of the organization to manage the proposed

research project and the quality of the established NARCH partnership(s).

b. Include information regarding any similarly sized projects in scope and financial assistance as well as any other similar projects successfully completed and/or under way.

c. Note who will be writing the required reports.

F. Categorical Budget and Budget Justification (10 Points)

Is the proposed budget reasonable in relation to the proposed work and research? Applicants must provide an itemized budget to complete the project in one year and budget justification for direct and indirect costs.

a. Narrative justification for all costs, explaining why each line item is necessary or relevant to the proposed project.

b. Budget justification should include a brief program narrative for the second and third years, in the event that the project is not completed in the first year.

2. Review and Selection

Each application will be prescreened by the DGO staff for eligibility and completeness as outlined in the funding announcement. Incomplete applications and applications that are non-responsive to the eligibility criteria will not be referred to the Objective Review Committee. Applicants will be notified by DGO, via letter, to outline the missing components of the application.

To obtain a minimum score for funding, applicants must address all program requirements and provide all required documentation. Applicants that receive less than a minimum score will be informed via e-mail of their application's deficiencies. A summary statement outlining the strengths and weaknesses of the application will be provided to these applicants. The summary statement will be sent to the Authorized Organizational Representative that is identified on the face page of the application.

VI. Award Administration Information

1. Award Notices

The Notice of Award (NoA) will be initiated by the DGO and will be mailed via postal mail to each entity that is approved for funding under this announcement. The NoA will be signed by the Grants Management Officer and this is the authorizing document for which funds are dispersed to the approved entities. The NoA will serve as the official notification of the grant award and will reflect the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget/project period. The NoA is the legally binding document and is signed by an authorized grants official within the IHS.

2. Administrative Requirements

Grants are administered in accordance with the following regulations, policies, and OMB cost principles:

A. The criteria as outlined in this Program Announcement.

B. Administrative Regulations for Grants:

- 45 CFR, Part 92, Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local and Tribal Governments.
- 45 CFR, Part 74, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-profit Organizations.

C. Grants Policy:

- HHS Grants Policy Statement, Revised 01/07.

D. Cost Principles:

- Title 2: Grant and Agreements, Part 225—Cost Principles for State, Local, and Indian Tribal Governments (OMB A–87).
- Title 2: Grant and Agreements, Part 230—Cost Principles for Non-Profit Organizations (OMB Circular A–122).

E. Audit Requirements:

- OMB Circular A–133, Audits of States, Local Governments, and Non-profit Organizations.

3. Indirect Costs

This section applies to all grant recipients that request reimbursement of indirect costs in their grant application. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to obtain a current indirect cost rate agreement prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate is not on file with the DGO at the time of award, the indirect cost portion of the budget will be restricted. The restrictions remain in place until the current rate is provided to the DGO.

Generally, indirect costs rates for IHS grantees are negotiated with the Division of Cost Allocation (DCA) *http://rates.psc.gov/*and the Department of Interior (National Business Center) *http://www.aqd.nbc.gov/indirect/indirect.asp.* If your organization has questions regarding the indirect cost policy, please call (301) 443–5204 to request assistance.

4. Reporting Requirements

The reporting requirements for this program are noted below.

A. Progress Reports

Program progress reports are required semi-annually. These reports will include a brief comparison of actual accomplishments to the goals established for the period, or, if applicable, provide sound justification for the lack of progress, and other pertinent information as required. A final report must be submitted within 90 days of expiration of the budget/project period.

B. Financial Reports

Semi-annual Financial Status Reports (FSR) reports must be submitted within 30 days after the budget period ends. Final FSRs are due within 90 days of expiration of the project period. Standard Form 269 (long form for those reporting on program income; short form for all others) will be used for financial reporting.

Federal Cash Transaction Reports are due every calendar quarter to the Division of Payment Management, Payment Management Branch at: *www.dpm.gov.* Failure to submit timely reports may cause a disruption in timely payments to your organization.

Grantees are responsible and accountable for accurate reporting of the Progress Reports and Financial Status Reports which are generally due semi-annually. Financial Status Reports (SF–269) are due 90 days after each budget period and the final SF–269 must be verified from the grantee records on how the value was derived.

Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports.

Telecommunication for the hearing impaired is available at: TTY (301) 443–6394.

VII. Agency Contacts

Grants (Business): For specific grant-related and business management information:

Roscoe Brunson, Grants Management Specialist, 801 Thompson Avenue, TMP, Suite 360, Rockville, MD 20852, (301) 443–5204 or *roscoe.brunson@ihs.gov.*

Program (Programmatic/Technical): For program-related and general information regarding this announcement:

Alan Trachtenberg, MD, MPH, IHS Research Program, 801 Thompson Ave, TMP Suite 450, Rockville, MD 20852, (301) 443–0578 or *narch@ihs.gov.*

Dated: June 2, 2010.

Yvette Roubideaux,

Director, Indian Health Service.

[FR Doc. 2010–13852 Filed 6–8–10; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Health Center Program

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of Noncompetitive Replacement Awards to Albany Area Primary Health Care, Inc.

SUMMARY: The Health Resources and Services Administration (HRSA) will be transferring Health Center Program (section 330 of the Public Health Service Act) Community Health Center (CHC), Increased Demand for Services (IDS), and Capital Improvement Program (CIP) funds originally awarded to Unadilla Health Care Center, Inc., to Albany Area Primary Health Care, Inc., to ensure the provision of critical primary health care services to underserved populations in Dooly County, Georgia.

SUPPLEMENTARY INFORMATION:

Former Grantee of Record: Unadilla Health Care Center, Inc.

Original Period of Grant Support: December 1, 2008, to November 30, 2010 (CHC); March 27, 2009, to March 26, 2011 (IDS); and June 29, 2009, to June 28, 2011 (CIP).

Replacement Awardee: Albany Area Primary Health Care, Inc.

Amount of Replacement Awards: The current awards for Unadilla Health Care Center, Inc., were issued at $678,041 (CHC); $126,411 (IDS); and $316,325 (CIP). The amounts transferred will be the remaining funds from those most recent awards.

Period of Replacement Awards: The period of support for the replacement awards is the remaining time in the Health Center project period ending on November 30, 2010 (CHC); March 26, 2011 (IDS); and June 28, 2011 (CIP).

Authority: Section 330 of the Public Health Service Act, 42 U.S.C. 254b.

CFDA Numbers: 93.224 and 93.703

Justification for the Exception to Competition

The former grantee, Unadilla Health Care Center, Inc. (UnaHealth), notified HRSA that it was unable to carry out the administrative and programmatic requirements to appropriately manage the grant funds and indicated that it would be relinquishing the grant funds. UnaHealth is unable to provide the necessary primary health care services in Dooly County, Georgia, to the more than 3,000 low income, underserved and uninsured individuals in the service area.

Albany Area Primary Health Care, Inc. (AAPHC) is an experienced provider of care and has a demonstrated record of compliance with the Health Center Program statutory and regulatory requirements and is located in the same geographical area. AAPHC will provide services to the residents of Dooly County at a site proximate to UnaHealth's current location. Community support for this transfer is demonstrated by letters of support from three other existing section 330 grantees in the service area, as well as a letter of support from the local Primary Care Association.

This underserved target population has an immediate need for vital primary health care services and would be negatively impacted by any delay or disruption of services caused by a competition. As a result, in order to ensure that critical primary health care services remain available to the original target population without disruption, this replacement award will not be competed.

FOR FURTHER INFORMATION CONTACT: Lynn Spector via e-mail at *lspector@hrsa.gov* or 301–594–4300.

Dated: June 3, 2010.

Mary K. Wakefield,

Administrator.

[FR Doc. 2010–13865 Filed 6–8–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; 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 Environmental Health Sciences Special Emphasis Panel; Conferences and Scientific Meetings Support.

Date: June 30, 2010.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, Research Triangle Park, NC 27709, (Telephone Conference Call)

Contact Person: Leroy Worth, PhD, Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30/Room 3171, Research Triangle Park, NC 27709, (919) 541–0670, *worth@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: June 2, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–13842 Filed 6–8–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

FDA–2010–N–0254

Preparation for International Cooperation on Cosmetic Regulations; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public meeting entitled "International Cooperation on Cosmetic Regulations (ICCR)—Preparation for ICCR–4 Meetings in Toronto, Canada" to provide information and receive comments on the ICCR as well as the upcoming meetings in Toronto, Canada. The topics to be discussed are the topics for discussion at the forthcoming ICCR Steering Committee meeting. The purpose of the meeting is to solicit public input prior to the next Steering Committee and expert working group meetings in Toronto, Canada the week of July 12, 2010.

Date and Time: The meeting will be held on Wednesday, July 7, 2010, from 1:30 p.m. to 3:30 p.m.

Location: The meeting will be held in the Washington Theater at the Hilton Washington DC/Rockville Hotel & Executive Meeting Center, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: All participants must register with Jennifer Haggerty, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, rm. 3567, Silver Spring, MD 20903, 301–796–4600. Register by emailing: *jennifer.haggerty@fda.hhs.gov.*

Registration and Requests for Oral Presentations: Send registration information (including name, title, firm name, address, telephone, and fax number), written material and requests to make oral presentation, to the contact person by July 2, 2010.

If you need special accommodations due to a disability, please contact Jennifer Haggerty (see *Contact Person*) at least 7 days in advance.

Transcripts: Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov*. It may be viewed at the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD. A transcript will also be available in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. Written requests are to be sent to Division of Freedom of Information (HFI–35), Office of Management Programs, Food and Drug Administration, 5600 Fishers Lane, rm. 6–30, Rockville, MD 20857.

SUPPLEMENTARY INFORMATION: The purpose of the multilateral framework on the ICCR is to pave the way for the removal of regulatory obstacles to international trade while maintaining global consumer protection.

ICCR is a voluntary international group of cosmetics regulatory authorities from the United States, Japan, the European Union, and Canada. These regulatory authority members will enter into constructive dialogue with their relevant cosmetics' industry trade associations. Currently, the ICCR members are Health Canada; the European Directorate General for Enterprise and Industry; the Ministry of Health, Labor and Welfare of Japan; and the U.S. Food and Drug Administration. All decisions made by the consensus will be compatible with the laws, policies, rules, regulations, and directives of the respective administrations and governments. Members will implement and/or promote actions or documents within their own jurisdictions and seek convergence of regulatory policies and practices. Successful implementation will require input from stakeholders.

Interested persons may present data, information, or views orally or in writing, on issues pending at the public meeting. Time allotted for oral presentations may be limited to 10 minutes. Those desiring to make oral presentations should notify the contact person by July 2, 2010, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses, telephone number, fax, and e-mail of proposed participants, and an indication of the approximate time requested to make their presentation.

The agenda for the public meeting will be made available on the Internet at: *http://www.fda.gov/Cosmetics/InternationalActivities/ConferencesMeetingsWorkshops.*

Dated: June 4, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–13821 Filed 6–8–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2010–0044]

Directorate for Management; DHS Diversity Forum: Building a Community for Women in the Federal Government

AGENCY: Directorate for Management, Office of the Chief Human Capital Officer, DHS.

ACTION: Notice of meeting.

SUMMARY: On June 17, 2010, the Department of Homeland Security (DHS) Office of the Chief Human Capital Officer will host a DHS Diversity Forum: "Building a Community for Women in the Federal Government." The purpose of this forum is to identify barriers and solutions for women in the workplace. The event will feature panel and roundtable discussions with women from across government, DHS components and outside organizations.

DATES: The meeting will take place on Thursday, June 17, 2010, from 9:30 a.m. to 4:30 p.m. This meeting may close early if all business is finished.

ADDRESSES: The meeting will be held at the National Museum of Women in the Arts, 1250 New York Avenue, NW., Washington, DC 20005 in the Elizabeth A. Kasser Board Room.

FOR FURTHER INFORMATION CONTACT: If you have questions regarding this notice, please contact DHS Diversity Program Manager Patricia Trujillo via e-mail at *patricia.trujillo@hq.dhs.gov,* telephone at 202–357–8228, facsimile at 202–357–8140, or via mail to: Department of Homeland Security, Chief Human Capital Office, Mail Stop 0170, Diversity Program Manager, 245 Murray Lane, SW., Washington, DC 20528–0170.

SUPPLEMENTARY INFORMATION:

Background and Purpose: The Department of Homeland Security mission is to prevent terrorism and enhance security, secure and manage our borders, enforce and administer our immigration laws, safeguard and secure cyberspace, and ensure resilience to disasters. DHS believes a diverse workforce, led by dedicated professionals who are representative of the American people, is one of the keys to mission success. DHS is committed to making the vision of a fully representative workforce a reality.

Procedural: This meeting is open to the public. Due to space and other facility constraints, however, the meeting is limited to sixty-five participants. To reserve a seat, please send your RSVP to Patricia Trujillo at

patricia.trujillo@hq.dhs.gov by June 14, 2010. Participants will have the option to purchase lunch within the price range of $20–$22.

Information on Services for Individuals with Disabilities: Individuals requiring reasonable accommodations or alternate formats are asked to submit their requests to Courtney Suss at *courtney.suss@hq.dhs.gov* by June 14, 2010.

Authority: This notice is issued under authority of 5 U.S.C. 552.

Dated: May 27, 2010.

Jeffrey R. Neal,

Chief Human Capital Officer Department of Homeland Security.

[FR Doc. 2010–13807 Filed 6–8–10; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–243, Extension of a Currently Approved Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review: Form I–243, Application for Removal; OMB Control No. 1615–0019.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until August 9, 2010.

During this 60-day period USCIS will be evaluating whether to revise the Form I–243. Should USCIS decide to revise the Form I–243 it will advise the public when it publishes the 30-day notice in the **Federal Register** in accordance with the Paperwork Reduction Act. The public will then have 30-days to comment on any revisions to the Form I–243.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Products Division, Clearance Office, 111 Massachusetts Avenue, Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to (202) 272–8352 or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail please make sure to add OMB Control Number 1615–0019 in the subject box.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Application for Removal.

(3) *Agency form number, if any, and the applicable Department of Homeland Security component sponsoring the collection:* Form I–243. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals and households. The information provided on this form allows the USCIS to determine eligibility for an applicant's request for removal from the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 41 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 20 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov/.*

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210, Telephone number 202–272–8377.

Dated: June 3, 2010.

Stephen Tarragon,

Deputy Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2010–13784 Filed 6–8–10; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities; Form I–777; Extension of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review; Form I–777, Application for Replacement of Northern Mariana Card; OMB Control No. 1615–0042.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for 60 days until August 9, 2010.

During this 60-day period, USCIS will be evaluating whether to revise the Form I–777. Should USCIS decide to revise Form I–777 we will advise the public when we publish the 30-day notice in the **Federal Register** in accordance with the Paperwork Reduction Act. The public will then have 30 days to comment on any revisions to the Form I–777.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail, please make sure to add OMB Control No. 1615–0042 in the subject box. Written comments and suggestions from the public and affected agencies concerning the collection of information should

address one or more of the following four points:

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

(2) Evaluate the accuracy of the 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, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Application for Replacement of Northern Mariana Card.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–777; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–777 is used by applicants applying for a Northern Mariana identification card if they received United States citizenship pursuant to Public Law 94–241 (covenant to establish a Commonwealth of the Northern Mariana Islands).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 50 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov/.*

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210, Telephone number 202–272–8377.

Dated: June 3, 2010.

Sunday Aigbe,

Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2010–13786 Filed 6–8–10; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form N–300; Extension of an Existing Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review; Form N–300, Application To File Declaration of Intention; OMB Control No. 1615–0078.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 23, 2010 at 75 FR 13776, allowing for a 60-day public comment period. USCIS did not receive any comments for this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 9, 2010. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Management and Budget (OMB) USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Products Division, Clearance Office, 111 Massachusetts Avenue, Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*, and to the OMB USCIS Desk Officer via facsimile at 202–395–5806 or via e-mail at *oira_submission@omb.eop.gov.*

When submitting comments by e-mail please make sure to add OMB Control Number 1615–0078 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information Collection:

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Application to File Declaration of Intention.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form N–300; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form N–300 will be used by permanent residents to file a declaration of intention to become a citizen of the United States. This collection is also used to satisfy documentary requirements for those seeking to work in certain occupations or professions, or to obtain various licenses.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 433 responses at 45 minutes (.75) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 325 annual burden hours.

If you need a copy of the information collection instrument, please visit the Website at: *http://www.regulations.gov/.*

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210, Telephone number 202–272–8377.

Dated: June 3, 2010.

Stephen Tarragon,

Deputy Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2010–13787 Filed 6–8–10; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–824; Extension of an Existing Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review; Form I–824; Application for Action on an Approved Application; OMB Control No. 1615–0044.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 23, 2010 at 75 FR 13777, allowing for a 60-day public comment period. USCIS did not receive any comments for this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 9, 2010. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Management and Budget (OMB) USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Products Division, Clearance Office, 111 Massachusetts Avenue, Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*, and to the OMB USCIS Desk Officer via facsimile at 202–395–5806 or via e-mail at *oira_submission@omb.eop.gov.*

When submitting comments by e-mail please make sure to add OMB Control Number 1615–0044 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Application for Action on an approved Application or Petition.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–824; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–824 is used to request a duplicate approval notice, or to notify the U.S. Consulate that a petition has been approved or that a person has been adjusted to permanent resident status.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 43,772 responses at 25 minutes (.416) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 18,209 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov/.*

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210, Telephone number 202–272–8377.

Dated: June 3, 2010.

Stephen Tarragon,

Deputy Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2010–13785 Filed 6–8–10; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–865; Extension of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review: Form I–865, Sponsor's Notice of Change of Address; OMB Control Number 1615–0076.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until August 9, 2010.

During this 60 day period, USCIS will be evaluating whether to revise the Form I–865. Should USCIS decide to revise Form I–865 we will advise the public when we publish the 30-day notice in the **Federal Register** in accordance with the Paperwork Reduction Act. The public will then have 30 days to comment on any revisions to the Form I–865.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Products Division, Clearance Office, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail please make sure to add OMB Control Number 1615–0076 in the subject box. Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the 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, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Sponsor's Notice of Change of Address.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–865. U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary*: Individuals or Households. This form will be used by every sponsor who has filed an Affidavit of Support under Section 213A of the Immigration and Nationality Act to notify the USCIS of a change of address. The data will be used to locate a sponsor if there is a request for reimbursement.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100,000 responses at 15 minutes (.25) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 25,000 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at:
http://www.regulations.gov/.

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210, Telephone number 202–272–8377.

Dated: June 3, 2010.

Stephen Tarragon,

Deputy Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services.

[FR Doc. 2010–13782 Filed 6–8–10; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2010–0437]

Certificate of Alternative Compliance for the Offshore Supply Vessel C–CONTENDER

AGENCY: Coast Guard, DHS.

ACTION: Notice.

SUMMARY: The Coast Guard announces that a Certificate of Alternative Compliance was issued for the offshore supply vessel C–CONTENDER as required by 33 U.S.C. 1605(c) and 33 CFR 81.18.

DATES: The Certificate of Alternate Compliance was issued on May 18, 2010.

ADDRESSES: The docket for this notice is available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to *http://www.regulations.gov,* inserting USCG–2010–0437 in the "Keyword" box, and then clicking "Search."

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call CWO2 David Mauldin, District Eight, Prevention Branch, U.S. Coast Guard, telephone 504–671–2153. 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:

Background And Purpose

A Certificate of Alternative Compliance, as allowed under Title 33 of the Code of Federal Regulations, Parts 81 and 89, has been issued for the offshore supply vessel C–CONTENDER. The horizontal distance between the forward and aft masthead lights may be 21′- 9 ¾″. Placing the aft masthead light at the horizontal distance from the forward masthead light as required by Annex I, paragraph 3(a) of the 72 COLREGS, and Annex I, section 84.05(a) of the Inland Rules Act, would result in an aft masthead light location directly over the cargo deck where it would interfere with loading and unloading operations.

The Certificate of Alternative Compliance allows for the horizontal separation of the forward and aft masthead lights to deviate from the requirements of Annex I, paragraph 3(a) of 72 COLREGS, and Annex I, section 84.05(a) of the Inland Rules Act.

This notice is issued under authority of 33 U.S.C. 1605(c), and 33 CFR 81.18.

Dated: May 18, 2010.

J.W. Johnson,

Commander, U.S. Coast Guard, Chief, Inspections and Investigations Branch, By Direction of the Commander, Eighth Coast Guard District.

[FR Doc. 2010–13800 Filed 6–8–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2010–0456]

Certificate of Alternative Compliance for the Offshore Supply Vessel ROSS CANDIES

AGENCY: Coast Guard, DHS.

ACTION: Notice.

SUMMARY: The Coast Guard announces that a Certificate of Alternative Compliance was issued for the offshore supply vessel ROSS CANDIES as required by 33 U.S.C. 1605(c) and 33 CFR 81.18.

DATES: The Certificate of Alternative Compliance was issued on May 18, 2010.

ADDRESSES: The docket for this notice is available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to *http://www.regulations.gov*, inserting USCG–2010–0456 in the "Keyword" box, and then clicking "Search."

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call CWO2 David Mauldin, District Eight, Prevention Branch, U.S. Coast Guard, telephone 504–671–2153. 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:

Background and Purpose

A Certificate of Alternative Compliance, as allowed under Title 33, Code of Federal Regulation, part 81, has been issued for the offshore supply vessel ROSS CANDIES, O.N. 1222260. Full compliance with 72 COLREGS

would hinder the vessel's ability to maneuver within close proximity of offshore platforms. The horizontal distance between the forward and aft masthead lights may be 35.645 meters. Placing the aft masthead light at the horizontal distance from the forward masthead light as required by Annex I, paragraph 3(a) of the 72 COLREGS would result in an aft masthead light location directly over the aft cargo deck where it would interfere with loading and unloading operations. In addition the sidelights may be placed 12.877 meters above the main deck. Placing the sidelights lower than 75% of the height of the forward masthead light as required by Annex I, paragraph 2(g) of 72 COLREGS would subject the sidelights to visual obstruction.

A Certificate of Alternative Compliance, as allowed under Title 33, Code of Federal Regulation, part 81, has been issued for the offshore supply vessel ROSS CANDIES, O.N. 1222260. The Certificate of Alternative Compliance allows for the horizontal separation of the forward and aft masthead lights to deviate from the requirements of Annex I, paragraph 3(a) of 72 COLREGS. In addition the Certificate of Alternative Compliance allows for the placement of the sidelights to deviate from requirements set forth in Annex I, paragraph 2(g) of 72 COLREGS.

This notice is issued under authority of 33 U.S.C. 1605(c), and 33 CFR 81.18.

Dated: May 24, 2010.

J.W. Johnson,

Commander, U.S. Coast Guard, Chief, Inspections and Investigations Branch, By Direction of the Commander, Eighth Coast Guard District.

[FR Doc. 2010–13803 Filed 6–8–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2010–0418]

Certificate of Alternative Compliance for the Offshore Supply Vessel JONCADE

AGENCY: Coast Guard, DHS.

ACTION: Notice.

SUMMARY: The Coast Guard announces that a Certificate of Alternative Compliance was issued for the offshore supply vessel JONCADE as required by 33 U.S.C. 1605(c) and 33 CFR 81.18.

DATES: The Certificate of Alternative Compliance was issued on May 11, 2010.

ADDRESSES: The docket for this notice is available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to *http://www.regulations.gov,* inserting USCG–2010–0418 in the "Keyword" box, and then clicking "Search."

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call CWO2 David Mauldin, District Eight, Prevention Branch, U.S. Coast Guard, telephone 504–671–2153. 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:

Background and Purpose

A Certificate of Alternative Compliance, as allowed under Title 33, Code of Federal Regulation, Parts 81 and 89, has been issued for the offshore supply vessel JONCADE, O.N. 1224528. Full compliance with 72 COLREGS and Inland Rules Act would hinder the vessel's ability to maneuver within close proximity of offshore platforms. The forward masthead light may be located on the top forward portion of the pilothouse 18.92′ above the hull. Placing the forward masthead light at the height as required by Annex I, paragraph 2(a) of the 72 COLREGS would result in a masthead light location highly susceptible to damage when working in close proximity to offshore platforms. Furthermore the horizontal distance between the forward and aft masthead lights may be 16.1′. Placing the aft masthead light at the horizontal distance from the forward masthead light as required by Annex I, paragraph 3(a) of the 72 COLREGS and Annex I, Section 84.05(a) of the Inland Rules Act would result in an aft masthead light location directly over the aft cargo deck where it would interfere with loading and unloading operations.

A Certificate of Alternative Compliance, as allowed under Title 33, Code of Federal Regulation, Parts 81 and 89, has been issued for the offshore supply vessel JONCADE, O.N. 1224528. The Certificate of Alternative Compliance allows for the vertical placement of the forward masthead light to deviate from requirements set forth in Annex I, paragraph 2(a) of 72 COLREGS. In addition the Certificate of Alternative Compliance allows for the horizontal separation of the forward and aft masthead lights to deviate from the requirements of Annex I, paragraph 3(a) of 72 COLREGS and Annex I, Section 84.05(a) of the Inland Rules Act.

This notice is issued under authority of 33 U.S.C. 1605(c), and 33 CFR 81.18.

Dated: 17 MAY 2010.

J.W. Johnson,

Commander, U.S. Coast Guard, Chief, Inspections and Investigations Branch, By Direction of the Commander, Eighth Coast Guard District.

[FR Doc. 2010–13802 Filed 6–8–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Issuance of Final Determination Concerning a GTX Mobile+ Hand Held Computer

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection ("CBP") has issued a final determination concerning the country of origin of a GTX Mobile+ hand held computer. Based upon the facts presented, CBP has concluded in the final determination that Canada is the country of origin of the GTX Mobile+ hand held computer for purposes of U.S. government procurement.

DATES: The final determination was issued on June 2, 2010. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination until July 9, 2010.

FOR FURTHER INFORMATION CONTACT: Robert Dinerstein, Valuation and Special Programs Branch: (202) 325–0132.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on June 2, 2010, pursuant to subpart B of part 177, Customs Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of the GTX Mobile+ hand held computer which may be offered to the U.S. Government under an undesignated government procurement contract. This final determination, in HQ H089762, was issued at the request of Psion Teklogix, Inc. under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended

(19 U.S.C. 2511–18). In the final determination, CBP has concluded that, based upon the facts presented, the combination of the installation of Canadian developed software on the GTX Mobile+ hand held computer and the assembly of the device in Canada from parts made in several different countries, resulted in a substantial transformation in Canada, such that Canada is the country of origin of the finished article for purposes of U.S. government procurement.

Section 177.29, Customs Regulations (19 CFR 177.29), provides that notice of final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: June 2, 2010.

Sandra L. Bell,

Executive Director, Regulations and Rulings, Office of International Trade.

Attachment—HQ H089762

June 2, 2010

MAR–2–05 OT:RR:CTF:VS H089762 RSD

Category: Marking

Robert T. Stack, Esq., Tompkins & Davidson, 5 Hanover Square, New York, NY 10004

RE: United States Government Procurement; Title III, Trade Agreements Act of 1979 (19 U.S.C. 2511); Subpart B, Part 177, CBP Regulations; GTX Mobile+ Hand Held Computer; substantial transformation

Dear Mr. Stack: This is in response to your letter dated July 18, 2008, requesting a final determination on behalf of Psion Teklogix, Inc., (Psion) pursuant to subpart B of Part 177, Customs and Border Protection ("CBP") Regulations (19 CFR 177.21 *et seq.*). CBP issues country of origin advisory rulings and final determinations on whether an article is or would be a product of a designated country or instrumentality for the purpose of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government. We have received a supplemental submission from your office dated March 15, 2010.

This final determination concerns the country of origin of the GTX Mobile+ hand held computers (GTX Mobile). We note that Psion is a party-at-interest within the meaning of 19 CFR 177.22(d)(1) and is entitled to request this final determination. Your request for confidential treatment regarding all cost and price information contained in your request is granted and such information will not be disclosed to the public.

Facts:

The product at issue is the base model of the computer GTX Mobile. It is used to collect mobile data in the field, conduct emulation testing on site, and/or transmit data/test information to the user's home facilities. The GTX Mobile is used in mobile-intensive applications such as asset tracking, meter reading and mobile ticketing across a variety of industries. The approximate exterior physical dimensions of the GTX Mobile are 9 inches in length, with a width ranging from 3 inches at the grip area to approximately 3.9 inches at the display area, and a depth ranging from 1.2 inches at the grip to 1.7 inches at the display area. It is battery powered and the various sub-assemblies forming the computers are housed in a metal chassis and a plastic exterior.

You indicate that the federal government may want to purchase the GTX Mobile for various military initiatives and emergency operations where asset identification and inventory tracking are critical. An example of basic military use for the GTX Mobile may include tracking computers and peripherals that are sent overseas. Product literature was submitted with your request.

The GTX Mobile hand held computer consists of the following functional components:

1. A subassembly consisting of the main logic board and keyboard, each individually assembled in China, and joined to the metal chassis frame in China;

2. The LCD screen sub-assembly, assembled in Japan from primarily Japanese components, including a screen and a printed circuit board;

3. A data cable and speaker connector for the LCD display screen, of Japanese origin;

4. An imager sub-assembly assembled in Canada using two PCB boards (one is an interface board assembled in Canada, and the other is a decoder board that is assembled in the United States), a camera element (imager engine) manufactured in the United States, and various structural and connection components and plastic structural casing components;

5. An 802.11g radio modem assembled in Taiwan using components from Japan, Israel, and the United States;

6. An RFID scanner made in Italy (currently an optional additional data gathering element).

In addition, construction of the unit requires a number of components, including;

1. A display bezel made in China, with a company logo added in the United States;

2. An end piece and battery cover from China;

3. A battery from Taiwan;

4. A stylus and stylus holder from China;

5. Optional accessories; and

6. A cover.

As noted above, the imager is assembled at a Psion subsidiary in Canada. The final assembly for the GTX Mobile takes place at Psion's Canadian headquarters facility. Assembly of the imager per unit involves fifteen steps to assemble twelve components. The most important components are two PCB's and engine.

The assembly process of the GTX Mobile in Canada involves internally developed product software applications to allow functionality of the main board, imager and radio. The parts are sent to the assembly cell units where the required assembly steps are completed. The physical assembly takes longer if alternative devices such as the RFID scanner with connection devices or other customer add-ons are included in the configuration.

The assembly includes attaching the keyboard bezel to the imported sub-assembly of the keyboard and main logic board, installing the data cable and speaker connector cable to both the LCD screen and the main logic board PCB in the chassis, assembling the LCD display screen to the chassis, installing the display bezel over the LCD portion of the chassis, pressing the display bezel into the housing, securing the bezel to the chassis with two screws, attaching the flex cable for the scanner imager to the 2D imager and the computer chassis, attaching the scanner console to the chassis, installing the radio card into the CF card slot, sliding the radio antenna for the radio into the housing slot, adding a stylus holder in the case housing, installing the end cap component, and installing the main battery.

Personnel begin software loading using internally developed fixtures and automated remote configuration software (variables affecting software versions loaded to particular computers include radio modem display version keyboard configuration, added devices such as RFID or other customer

specifications), which involves the installation of: (a) The Microsoft license for the Microsoft CE operation system; (b) Psion self-developed upgraded version of the Microsoft operating system; (c) Psion "Opentekterm" proprietary software package that renders the device operational; (d) security software for the device, (e) Fortress Technologies Secure Client security software; and Juniper Networks Odyssey Access Client FIPS and (f) Mobile Control Center Psion Tekogix's proprietary device management software. The software download takes approximately four minutes. You indicate that in Canada, Psion has expended in excess of 150,000 hours in the development of its proprietary software code for its line of mobile hand held computers, at a considerable cost. It continues to expend significant sums annually in upgrading versions of the terminal emulation software of communication software to enhance performance of the product and to assure compatibility with component improvements.

After the software is loaded, final functional testing is done for functional compatibility. These tests are managed by the internally developed Automated Remote Configuration software application. After testing, the unit is subject to a variable lot control reporting process which records all the configuration and software elements for the unit with the product serial code into a company record system.

The testing and assembly line operation involves two Active Remote Configuration (ACR) test experts, four manufacturing engineering and sixteen assembly technicians. The four manufacturing engineering and two ARC testing experts are responsible for the assembly guides and software download configuration required for each individual product line. It generally involves somewhere between 200 and 300 hours of personnel time per product line.

Issue:

What is the country of origin of the GTX Mobile hand computer for purposes of U.S. Government procurement?

Law and Analysis:

Pursuant to Subpart B of Part 177, 19 CFR 177.21 *et seq.,* which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511 *et seq.*), CBP issues country of origin advisory rulings and final determinations on whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also, 19 CFR 177.22(a).

In rendering advisory rulings and final determinations for purposes of U.S. Government procurement, CBP applies the provisions of subpart B of Part 177 consistent with the Federal Procurement Regulations. *See* 19 CFR 177.21. In this regard, CBP recognizes that the Federal Procurement Regulations restrict the U.S. Government's purchase of products to U.S.-made or designated country end products for acquisitions subject to the TAA. *See* 48 CFR 25.403(c)(1).

Therefore, the question presented in this final determination is whether, as a result of the operations performed in Canada, the GTX Mobile computer will be substantially transformed into a product of Canada.

In determining whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of operations performed and whether the parts lose their identity and become an integral part of the new article. *Belcrest Linens* v. *United States,* 6 Ct. Int'l Trade 204, 573 F. Supp. 1149 (1983), *aff'd,* 741 F.2d 1368 (Fed. Cir. 1984). If the manufacturing or combining process is a minor one which leaves the identity of the imported article intact, a substantial transformation has not occurred. *Uniroyal Inc.* v. *United States,* 3 Ct. Int'l Trade 220, 542 F. Supp. 1026 (1982). Assembly operations that are minimal or simple, as opposed to complex or meaningful, will generally not result in a substantial transformation. *See* C.S.D. 80–111, C.S.D. 85–25, and C.S.D. 90–97.

In order to determine whether a substantial transformation occurs when components of various origins are assembled to form completed articles, CBP considers the totality of the circumstances and makes such decisions on a case-by-case basis. The country of origin of the article's components, the extent of the processing that occurs within a given country, and whether such processing renders a product with a new name, character, or use are primary considerations in such cases. Additionally, facts such as resources expended on product design and development, extent and nature of post-assembly inspection procedures, and worker skill required during the actual manufacturing process will be considered when analyzing whether a substantial transformation has occurred; however, no one such factor is determinative.

In several rulings, CBP has analyzed whether the assembly of electronic equipment such as computers and related devices from various components resulted in a substantial transformation of those components. For example, in Headquarters Ruling Letter (HQ) 735541 dated September 15, 1994, one of the two types of assembly operations described in the ruling involved inserting a floppy disk drive, VGA docking station board, keyboard, DC/DC converter, as well as a CPU, RAM, and a hard disk drive into an imported unfinished computer. In addition, a LCD display assembly and a plastic battery cover were attached into the computer. We noted that the assembly process involved several components and also included the assembly of the CPU, which allowed the computers to function. Consequently, we concluded that in combining these components in the production of a notebook computer, a new article of commerce was created that was separate and distinct from the individual components of which it was composed.

HQ 735608 dated April 27, 1995, involved various scenarios pertaining to the assembly of a desktop computer in the U.S. and the Netherlands. In one of the scenarios, foreign components assembled in the U.S. were the case assembly (including the computer case, system power supply and floppy disk drive), partially completed motherboard, CPU (which controls the interpretation and execution of instructions and included the arithmetic-logic unit and control unit), hard disc drive, slot board, keyboard BIOS and system BIOS (basic input and output system). Additional components manufactured in the U.S. or the Netherlands were assembled into the finished desktop computers depending on the model included an additional floppy drive, CD ROM disk, and memory boards. In that case, CBP found that the foreign case assemblies, partially completed motherboards, hard disk drives and slot boards underwent a change in name, character and use as a result of the operations done in the

U.S. and that the components lost their separate identities in becoming an integral part of a desktop computer. CBP noted that the finished article, a desktop computer, was visibly different from any of the individual foreign components, acquiring a new use, processing and displaying information. Accordingly, CBP held that the individual components underwent a substantial transformation as a result of the operations performed in the U.S. *See also* HQ 559336 dated March 13, 1996, in which CBP also determined that foreign components, such as clamshell base, LCD video display, hard disk drive, floppy disk drive, AC power adapter were substantially transformed by the processing and assembly operations performed in the United States; and HQ 560633, dated November 17, 1997.

In this case, in addition to the components and parts being assembled in Canada, the GTX Mobile hand computers are programmed in Canada by the installation of Canadian developed software onto the devices. In *Data General* v. *United States,* 4 Ct. Int'l Trade 182 (1982), the Court of International Trade found that for purposes of determining eligibility under item 807.00, Tariff Schedules of the United States (the predecessor provision to subheading 9802.00.80, Harmonized Tariff Schedule of the United States), the programming of a foreign Programmable Read-Only Memory ("PROM") chip, substantially transformed the PROM into a U.S. article. The court noted that it was undisputed that programming altered the character of a PROM, effecting a physical change. The essence of the article, its interconnections or stored memory, was established by programming. The court concluded that altering the non-functioning circuitry comprising a PROM through technological expertise in order to produce a functioning read-only memory device possessing a desired distinctive circuit pattern constituted "substantial transformation." After the *Data General* decision, in a number of previous rulings, CBP has considered whether the programming devices and electronic equipment constitutes a substantial transformation of such devices.

In HQ 735027, dated September 7, 1993, CBP considered a "MemoPlug," used to protect software from piracy. It was assembled in Israel from Taiwanese parts (such as various connectors and an Electronically Erasable Programmable Read Only Memory, or "EEPROM") and Israeli parts (such as an internal circuit board). After assembly, the EEPROM was programmed in the U.S. with special software. Such processing in the United States accounted for approximately 50 percent of the final selling price of the MemoPlugs. In finding that the foreign-origin components were substantially transformed in the United States, CBP noted that the U.S. processing transformed a blank media, the EEPROM, into a device that performed functions necessary to the prevention of software piracy.

HQ H034843, dated May 5, 2009, concerned encrypted USB flash devices ("UFD"), used to protect data when a UF is lost or stolen. The key hardware component of the UFD was a Japanese origin flash memory chip. Other components were shipped to China where they were assembled. In one scenario, the UFD's were shipped to Israel where firmware application software developed in Israel was installed and customized into the device. Without application software, the UFD did not exhibit its security features. CBP held that the country origin of the encrypted UFD was Israel.

In this instance, we note that the building of the GTX Mobile requires the assembly of components in Canada, together with an imager of Canadian origin using subassemblies of various origins. Taking into account the Canadian assembly of the imager, the total assembly process requires a number of discrete steps that permit the individual components to function together as a single unit able to gather, process, display and transmit information from field operations to office locations. We, moreover, take note that a complex software program is loaded onto the GTX Mobile which has been designed and written entirely in Canada. This software has been designed so that the customer may centrally manage and troubleshoot remote computer applications, allowing for communication between computers in distant locations. We find the creation and installation of the software to be a crucial element that permits the functioning of the hand held computers. Therefore, we find that the assembly processes that will occur in Canada, coupled with the configuration operations also performed in Canada that require the installation of Canadian-origin software, will substantially transform the components of non-Canadian origin into a product with a new name, character, and use. Accordingly, we find that the country of origin of the GTX Mobile is Canada.

Holding:

The non-Canadian component parts and subassemblies are substantially transformed in Canada, the location where the subassemblies and components from various countries are assembled together to make the GTX Mobile, and where the complex software is developed and installed onto the device. Therefore, we find that the country of origin of the GTX Mobile for government procurement purposes is Canada.

Notice of this final determination will be given in the **Federal Register**, as required by 19 CFR 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 CFR 177.31 that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 CFR 177.30, any party-at-interest may, within 30 days after publication of the **Federal Register** Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Sandra L. Bell,

Executive Director, Office of Regulations and Rulings, Office of International Trade.

[FR Doc. 2010–13845 Filed 6–8–10; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

Notice of Issuance of Final Determination Concerning Certain Upright and Recumbent Exercise Bikes

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection ("CBP") has issued a final determination concerning the country of origin of certain upright and recumbent exercise bikes. Based upon the facts presented, CBP has concluded in the final determination that the U.S. is the country of origin of the upright and recumbent exercise bikes for purposes of U.S. government procurement.

DATES: The final determination was issued on June 2, 2010. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination until July 9, 2010.

FOR FURTHER INFORMATION CONTACT: Elif Eroglu, Valuation and Special Programs Branch: (202) 325–0277.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on June 2, 2010,

pursuant to subpart B of part 177, Customs Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of the upright and recumbent exercise bikes which may be offered to the U.S. Government under an undesignated government procurement contract. This final determination, in HQ H095239, was issued at the request of Brunswick Corporation under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). In the final determination, CBP has concluded that, based upon the facts presented, the upright and recumbent exercise bikes, assembled in the U.S. from parts made in Mexico, China, Taiwan, Germany, Indonesia, Korea and the U.S., are substantially transformed in the U.S., such that the U.S. is the country of origin of the finished article for purposes of U.S. government procurement.

Section 177.29, Customs Regulations (19 CFR 177.29), provides that notice of final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: June 2, 2010.

Sandra L. Bell,

Executive Director, Regulations and Rulings, Office of International Trade.

Attachment

H095239

June 2, 2010
OT:RR:CTF:VS H095239 EE
CATEGORY: Marking

Ms. Shannon Fura
Mr. Jeremy Page
Page•Fura, P.C., 1 South Dearborn, Suite 2100, Chicago, IL 60603

RE: U.S. Government Procurement; Title III, Trade Agreements Act of 1979 (19 U.S.C. § 2511); Subpart B, Part 177, CBP Regulations; Country of Origin; Upright and Recumbent Exercise Bikes

Dear Ms. Fura and Mr. Page: This is in response to your correspondence of September 1, 2009, resubmitted January 19, 2010, forwarded to us by the National Import Specialist ("NIS") Division, in which you requested a final determination on behalf of Brunswick Corporation ("Brunswick"), pursuant to subpart B of part 177, Customs and Border Protection ("CBP") Regulations (19 C.F.R. § 177.21 et seq.). Under the pertinent regulations, which implement Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purpose of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of certain upright and recumbent exercise bikes. We note that Brunswick is a party-at-interest within the meaning of 19 C.F.R. § 177.22(d)(1) and is entitled to request this final determination.

FACTS:

You describe the pertinent facts as follows. The items at issue consist of upright and recumbent exercise bikes produced in the U.S. from U.S. and foreign components by Brunswick's Life Fitness Division. You advise that both versions of the bikes are produced in the U.S. from a range of components and subassemblies. The majority of the components which comprise the bikes and the various subassemblies are stated to be of U.S. origin, with a lesser number sourced from Mexico, China, Taiwan, Germany, Indonesia, and Korea. All of the subassemblies are produced in the U.S. with the exception of the standard console assembly, which is produced in Indonesia. The various subassemblies are ultimately assembled into the final frame assembly to produce the final product. You state that the final assembly, which takes place in the U.S., is the most-complex step in the manufacturing process, requiring the incorporation of all of the other assemblies in a precise order to ensure the proper operation of the finished bike. The upright and recumbent exercise bikes will be tested and packaged in the U.S.

You submitted the list of components for the upright and recumbent exercise bikes and the origin of each component. You also submitted illustrations of the upright and recumbent exercise bikes and the step-by-step assembly process in the U.S.

A. Upright Exercise Bike

The upright exercise bike is produced from a number of distinct subassemblies which, with the exception of the console assembly, are assembled in the U.S. The primary subassemblies include the wheel assembly; the leg leveler and nut assembly; the seat assembly; the shieve/clutch bearing subassembly; the intermediate pulley/shaft; the drive pulley/crank hub; the idler-arm assembly; the alternator-pulley assembly; the rear resistor/bracket/cable assembly; the PCB/battery assembly; the reed switch/bracket subassembly; the shroud with decal assembly (left & right); and the handlebar assembly. The subassemblies are produced concurrently and then joined together during the final bike frame assembly process.

The assembly of the upright exercise bike is comprised of approximately 352 individual operational steps and more than 175 components. The production of the subassemblies takes approximately 90 minutes, which includes 30 minutes for the final assembly.

The upright exercise bike assembly process of the principal subassemblies involves:

1. Pressing flange bearing into wheel using arbor press; (wheel assembly)
2. Securing insert to wheel and bearing assembly with a screw; (wheel assembly)
3. Attaching decal seat post and seat with fasteners. Attaching seat post guide, spring support brackets, guide base with fasteners and pressing on seat post bumper; (seat assembly)
4. Pressing shieve and clutch bearing using mandrel; (shieve/clutch bearing subassembly)
5. Securing magnet and standoff assembly to crankshaft assembly with a screw; (intermediate pulley/shaft)
6. Securing crank hub to pulley with bolts; (drive pulley/crank hub)
7. Securing pulley to idler arm bracket with nut; (idler-arm assembly)
8. Securing pulley to alternator with nut and washer; (alternator-pulley assembly)
9. Assembling resistor, resistor brackets, resistor rod and covering the assembly with cardboard insulator; (rear resistor/bracket/cable assembly)
10. Installing wire harness to the resistor terminals with bolts and nuts; (rear resistor/bracket/cable assembly)
11. Seating stand-offs to PCB bracket with mallet; (PCB/battery assembly)
12. Securing PCB board to seating stand-offs with screws; (PCB/battery assembly)
13. Securing battery to PCB bracket with screws; (PCB/battery assembly)
14. Securing reed switch to reed switch bracket with screws; (reed switch/bracket subassembly)
15. Decal application on shrouds; (shroud with decal assembly)
16. Assembling of handlebar with electrode (heartbeat measurement) cable assembly, poly sleeves, and caution labeling and attaching handlebar end caps with mallet. (handlebar assembly)

B. Recumbent Exercise Bike

Similar to the upright exercise bike, the recumbent exercise bike is produced from a number of distinct subassemblies which, with the exception of the console assembly, are assembled in the U.S. The subassemblies include but are not limited to the resistor-mounting bracket assembly; the power-PCB bracket assembly; the shroud with decal assembly (left & right); the leg leveler assembly; the wheel assembly; the intermediate-pulley assembly; the idler-bracket pulley assembly; the pulley-clutch assembly; the crank-pulley assembly; the alternator-pulley assembly; the seat assembly; the lock assembly; the roller take-up assembly; the seat extrusion assembly; the battery mounting-bracket assembly; the extrusion endcap assembly; and the reed-switch mounting bracket assembly. The individual subassemblies are produced concurrently and then joined together and sequenced for the final bike frame assembly process to produce the finished recumbent bike.

The assembly of the recumbent exercise bike is comprised of approximately 468 individual operational steps and more than 270 components. The production of the recumbent exercise bike takes approximately 105 minutes, which includes 14 minutes for the final assembly.

The recumbent exercise bike assembly process of the principal subassemblies involves:

1. Securing resistor assembly into bracket with nut; (resistor-mounting bracket assembly)
2. Seating stand-offs to PCB bracket with mallet; (power-PCB bracket assembly)
3. Securing the PCB board to stand-offs with screws bracket; (power-PCB bracket assembly)
4. Decal application on shrouds; (shroud with decal assembly)
5. Assembling nuts to leg levelers; (leg leveler assembly)
6. Securing insert to wheel and bearing assembly with screw; (wheel assembly)
7. Securing magnet and standoff assembly to crankshaft assembly with screw; (intermediate-pulley assembly)
8. Securing pulley to idler arm bracket with nut; (idler-bracket pulley assembly)
9. Pressing shieve and clutch bearing using mandrel; (pulley-clutch assembly)
10. Securing crank hub to pulley with bolts; (crank-pulley assembly)
11. Securing pulley to alternator with nut and washer; (alternator-pulley assembly)
12. Assembling handlebars with seat weldment, cable assembly, cable sleeve, bottom seat pad, roller take-up assemblies and rollers using screws, washers and nuts; (seat assembly)
13. Assembling locking block with housing-insert assembly, compression spring, retainer bearing into housing, with packed housing. Further assembling and locking in place with groove pin (using arbor press), anti-rattle washer, knob/bracket assembly and handle using screws; (lock assembly)
14. Pressing take-up roller shaft through take-up roller plate with arbor press; (roller take-up assembly)
15. Assembling preload rollers to roller-place assemblies and assembling e-rings to assemblies; (roller take-up assembly)
16. Assembling seat extrusion with threaded rivets and cable clamp. Attaching locking rack with fasteners, stop bracket and bumper strip with screws; (seat extrusion assembly)
17. Securing battery to bracket with screws; (battery mounting-bracket assembly)
18. Assembling decal to endcap; (extrusion endcap assembly)
19. Securing reed switch to reed switch bracket with screws. (reed-switch mounting bracket assembly)

ISSUE:

What is the country of origin of the upright and recumbent exercise bikes for the purpose of U.S. government procurement?

LAW AND ANALYSIS:

Pursuant to subpart B of part 177, 19 C.F.R. § 177.21 *et seq.,* which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 *et seq.*), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. § 2518(4)(B):

"An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed."

See also, 19 C.F.R. § 177.22(a).

In rendering advisory rulings and final determinations for purposes of U.S. government procurement, CBP applies the provisions of subpart B of part 177 consistent with the Federal Acquisition Regulations. *See* 19 C.F.R. § 177.21. In this regard, CBP recognizes that the Federal Acquisition Regulations restrict the U.S. Government's purchase of products to U.S.-made or designated country end products for acquisitions subject to the TAA. See 48 C.F.R.§ 25.403(c)(1). The Federal Acquisition Regulations define "U.S.-made end product" as:

"* * * an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed."

48 C.F.R. § 25.003.

In determining whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of operations performed and whether the parts lose their identity and become an integral part of the new article. *Belcrest Linens* v. *United States,* 573 F. Supp. 1149 (Ct. Int'l Trade 1983), *aff'd,* 741 F.2d 1368 (Fed. Cir. 1984). Assembly operations that are minimal or simple, as opposed to complex or meaningful, will generally not result in a substantial transformation. Factors which may be relevant in this evaluation may include the nature of the operation (including the number of components assembled), the number of different operations involved, and whether a significant period of time, skill, detail, and quality control are necessary for the assembly operation. *See* C.S.D. 80–111, C.S.D. 85–25, C.S.D. 89–110, C.S.D. 89–118, C.S.D. 90–51, and C.S.D. 90–97. If the manufacturing or combining process is a minor one which leaves the identity of the article intact, a substantial transformation has not occurred. *Uniroyal, Inc.* v. *United States,* 3 CIT 220, 542 F. Supp. 1026 (1982), *aff'd* 702 F. 2d 1022 (Fed. Cir. 1983).

In order to determine whether a substantial transformation occurs when components of various origins are assembled into completed products, CBP considers the totality of the circumstances and makes such determinations on a case-by-case basis. The country of origin of the item's components, extent of the processing that occurs within a country, and whether such processing renders a product with a new name, character, and use are primary considerations in such cases. Additionally, factors such as the resources expended on product design and development, extent and nature of post-assembly inspection and testing procedures, and the degree of skill required during the actual manufacturing process may be relevant when determining whether a substantial transformation has occurred. No one factor is determinative.

In a number of rulings (e.g., Headquarters Ruling Letter ("HQ") 735608, dated April 27, 1995 and HQ 559089 dated August 24, 1995), CBP has stated: "in our experience these inquiries are highly fact and product specific; generalizations are troublesome and potentially misleading.''

In HQ 735368, dated June 30, 1994, CBP held that the country of origin of a certain finished bike assembled in Taiwan with components made in several countries was Taiwan. CBP stated that because the bicycle was assembled in Taiwan and one of the bicycle's most significant components, the frame, was made in Taiwan, the country of origin of the bicycle was Taiwan. Although the other components came from several different countries, when they were assembled together in Taiwan, they each lost their separate identity and became an integral part of a new article of commerce, a bicycle.

In the instant case, the assembly of the upright exercise bike is comprised of approximately 352 discrete steps and over 175 U.S. and foreign components. The assembly of the recumbent exercise bike is comprised of approximately 468 discrete steps and over 270 U.S. and foreign components. With the exception of the standard console subassembly, all of the subassemblies are produced in the U.S. from U.S. and foreign components. The subassemblies are then assembled into the final frame assembly. We find that under the described assembly process, the foreign components lose their individual identities and become an integral part of the articles, the upright and recumbent exercise bikes, possessing a new name, character and use. The assembly process that occurs in the U.S. is complex and meaningful and requires the assembly of a large number of components into subassemblies to be assembled into the final products. Further, we note that a substantial number of components are of U.S. origin, where the assembly occurs, which was an important consideration in HQ 735368. Therefore, based upon the information before us, we find that the imported components that are used to manufacture the upright and recumbent exercise bikes are substantially transformed as a result of the assembly operations performed in the U.S. and that the country of origin of the bikes for government procurement purposes is the U.S.

HOLDING:

The components that are used to manufacture the upright and recumbent exercise bikes are substantially transformed as a result of the assembly operations performed in the U.S. Therefore, the country of origin of the upright and recumbent exercise bikes for government procurement purposes is the U.S.

Notice of this final determination will be given in the **Federal Register**, as required by

19 C.F.R.§ 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 C.F.R.§ 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 C.F.R.§ 177.30, any party-at-interest may, within 30 days after publication of the **Federal Register** notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Sandra L. Bell

Executive Director, Regulations and Rulings Office of International Trade.

[FR Doc. 2010–13847 Filed 6–8–10; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

National Park Service

30-Day Notice of Submission to the Office of Management and Budget (OMB); Opportunity for Public Comment

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice and request for comments.

SUMMARY: Under provisions of the Paperwork Reduction Act of 1995 and 5 CFR Part 1320, Reporting and Recordkeeping Requirements, the National Park Service (NPS) invites public comments on a proposed new collection of information (OMB #1024–XXXX).

DATES: Public comments on this Information Collection Request (ICR) will be accepted on or before July 9, 2010.

ADDRESSES: You may submit comments directly to the Desk Officer for the Department of the Interior (OMB #1024–XXXX), Office of Information and Regulatory Affairs, OMB, by fax at 202/395–5806, or by electronic mail at *oira_docket@omb.eop.gov.* Please also send a copy of your comments to Eppley Institute for Parks and Public Land, Indiana University Research Park, RE ASIS, 501 Morton Street, Suite 101, Bloomington, Indiana 47404; or via fax to 812/855–5600; or via e-mail to *eppley@indiana.edu.*

FOR FURTHER INFORMATION CONTACT: Dr. James Gramann, NPS Social Science Division, 1201 "Eye" St., Washington, DC 20005; or via phone 202–513–7189; or via e-mail *James_Gramann@partner.nps.gov.* You are entitled to a copy of the entire ICR package free-of-charge. You may access this ICR at *http://www.reginfo.gov/public/.*

Comments Received on the 60-Day Federal Register Notice: The NPS published a 60-day notice to solicit public comments on an information collection request entitled "Assessing Visitor Attitudes, Experiences, and Expectations Associated with the Management and Use of Oversand Vehicles at Assateague Island National Seashore" in the **Federal Register** on February 8, 2008 (Vol. 73, No. 34, Page 9354–9355). Publication of the **Federal Register** notice was supplemented by multiple notifications to stakeholders about the proposed study. The NPS received 43 comments as a result the 60-day notice and the stakeholder notifications. The comments and responses are summarized below:

(1) A number of comments either supported or opposed the use of oversand vehicles (OSVs) at Assateague Island National Seashore. These comments related to possible management actions NPS might take, but did not relate to the need for the information collection or the burden of the collection.

(2) Three commenters requested a copy of the draft survey. Copies were sent to each of the parties requesting them.

(3) The Defenders of Wildlife and the Center for Biological Diversity sent a joint set of comments. Some of these comments concerned the current management of the OSV zone, while others included specific thoughts on the proposed survey. As a result, the Defenders of Wildlife and the Center for Biological Diversity, along with the Assateague Mobil Sport Fishermen's Association, were invited to comment on the content and wording of the draft questionnaires. The Defenders of Wildlife and the Center for Biological Diversity declined to provide additional comments. The Assateague Mobil Sport Fishermen Association did provide additional feedback, including recommendations for wording changes in some questions, along with guidance to make sure the information collected was relevant to issues surrounding the OSV zone. There were also concerns that a particular area of the OSV Zone was being targeted in a number of the questions. The surveys were modified as a result of these comments.

SUPPLEMENTARY INFORMATION:

Title: Assessing Visitor Attitudes Experiences and Expectations Associated with the Management and Use of Oversand Vehicles at Assateague Island National Seashore.

Bureau Form Number(s): None.

OMB Number: To be requested.

Expiration Date: To be requested.

Type of Request: New collection.

Description of Need: The proposed study will supply input into identifying and evaluating alternatives for future management of Oversand Vehicle (OSV) use at Assateague Island National Seashore (ASIS), Maryland. The purpose of this research is to provide park managers with information about the characteristics of visitors to the OSV zone and adjacent backcountry areas in the park, attributes of the OSV zone that are important to the quality of visitor experiences, and visitor attitudes regarding OSV management, use, and resource protection practices.

The use of OSVs for access and recreation is a traditional activity that occurred at Assateague prior to the establishment of the National Seashore in 1965. Management of OSVs was formalized with the adoption of special regulations (36 CFR 7.65) in 1974, which established vehicle and equipment requirements, an OSV permit system, general requirements for legal operation, and a maximum limit of 145 vehicles using the Maryland District OSV zone at any time. OSV use was reevaluated in 1982 during the Seashore's general management planning process. The General Management Plan (GMP) designated a "Traditional Recreation Subzone" in the Maryland District approximately 12 miles long to be managed for multiple uses, including oversand travel by properly equipped and permitted OSVs. The Traditional Recreation Subzone also includes a small area for overnight accommodation of self-contained OSVs and two hike-in backcountry campgrounds. In 2008, the NPS began a revision of the GMP for ASIS. The revised GMP will: (1) Clearly define the desired natural and cultural resource conditions to be achieved and maintained over time; (2) clearly define the necessary conditions for visitors to understand, enjoy, and appreciate the park's significant resources; (3) identify the kinds and levels of management activities, visitor use, and development that are appropriate for maintaining the desired conditions; and (4) identify indicators and standards for maintaining the desired conditions.

The proposed study will assist in the GMP revision by informing decisions related to the management of OSV use at ASIS. The study has two primary objectives: (1) Develop baseline data on users of the Traditional Recreation Subzone, including types, frequency and patterns of use, and their socio-economic and demographic characteristics; and (2) provide input into potential indicators and standards of quality for maintaining the desired

visitor experience in the Traditional Recreation Subzone. The study includes two questionnaires. The first will be administered to a representative sample of OSV users in the Traditional Recreation Subzone; the second will be given to a representative sample of non-OSV users in the Subzone.

1. Survey OSV Permit Holders Utilizing the Traditional Recreation Subzone

A randomly selected group of current OSV permit holders will receive a mailback questionnaire, with an option to complete the survey on-line using a unique identification code. The survey includes questions about OSV users' demographics; the frequency, patterns, and type of OSV use; factors influencing the quality of visitor experiences; and attitudes toward current and potential OSV management and resource protection practices. This research is proposed for the summer and fall of 2010.

2. Survey Backcountry Users of the Traditional Recreation Subzone

A randomly selected group of visitors issued backcountry camping permits in 2009 will receive a mailback questionnaire, with an option to complete the survey on-line using a unique identification code. The survey will include questions similar to those in the OSV questionnaire, but specific to backcountry camping experiences. This survey also is proposed for summer and fall of 2010.

Automated data collection: This information will be collected via mailback surveys distributed through U.S. Postal Service mail. Participants also will be given the opportunity to respond to the survey on-line by using a unique identification code and password.

Description of respondents: Current OSV permit holders and current backcountry permit holders at Assateague Island National Seashore.

Estimated number of respondents: 500 OSV permit holders (350 respondents and 150 non-respondents); 330 backcountry permit holders (230 respondents and 130 non-respondents); 40 non-respondents contacted for a short non-respondent survey.

Estimated average burden hours per response: 3 minutes for initial contact; 15 minutes for OSV survey; 10 minutes for backcountry survey; 5 minutes for non-respondent survey.

Frequency of Response: 1 time per respondent.

Estimated annual reporting burden: 171 hours.

Comments are invited on: (1) The practical utility of the information being gathered; (2) the accuracy of the burden hour estimate; and (3) ways to enhance the quality, utility, and clarity of the information being gathered. 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 OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: June 3, 2010.

Stephanie Leonard,

NPS, Acting Information Collection Clearance Officer.

[FR Doc. 2010–13794 Filed 6–8–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

National Park Service

60-Day Notice of Intention To Request Clearance of Collection of Information; Opportunity for Public Comment

AGENCY: National Park Service, Interior.

ACTION: Notice and request for comments.

SUMMARY: Under provisions of the Paperwork Reduction Act of 1995 and 5 CFR Part 1320, Reporting and Recordkeeping Requirements, the National Park Service (NPS) invites public comments on the renewal of a current collection with a revision for Office of Management and Budget control number 1024–0252.

DATES: Public comments will be accepted on or before August 9, 2010.

ADDRESSES: Send comments to: Brandon Flint, NPS, WASO Recreation Fee Program Office, 1849 C St., NW. (2608), Washington, DC 20240; or by e-mail at *brandon_flint@nps.gov.,* or by fax at 202/371–6623. All comments will become a matter of public record.

To Request a Draft of Proposed Collection of Information Contact: Brandon Flint, NPS, WASO Recreation Fee Program Office, 1849 C St., NW. (2608), Washington, DC 20240; *phone:* 202/513–7096; *e-mail: brandon_flint@nps.gov,* or by fax at 202/371–2401.

SUPPLEMENTARY INFORMATION:

Title: The Interagency Access Pass Application Process.

Bureau Form Number: None.

OMB Number: 1024–0252.

Expiration Date: February 28, 2011.

Type of Request: Extension of a currently approved collection with a revision.

Description of Need: The currently approved information collection responds to the Federal Lands Recreation Enhancement Act (FLREA) which requires the Secretary of Agriculture and the Secretary of the Interior to make the America the Beautiful—The National Parks and Federal Recreational Lands Pass available, for free, to any United States citizen or person domiciled in the United States who has been medically determined to be permanently disabled for purposes of Section 7(20)(B)(i) of the Rehabilitation Act of 1973 (29 U.S.C. 705 (20)(B)(i)). The Act further requires that the applicant provide adequate proof of the disability and such citizenship or residency. The Act specifies that the Pass shall be valid for the lifetime of the pass holder. The America the Beautiful—The National Parks and Federal Recreational Lands Access Pass (Interagency Access Pass) was created to meet the requirements of the FLREA. An Interagency Access Pass is a free, lifetime permit that is issued without charge by the Bureau of Land Management, Bureau of Reclamation, United States Fish and Wildlife Service, United States Forest Service, and the National Park Service to citizens or persons who are domiciled (permanent residents) in the United States, regardless of age, and who have a medical determination and documentation of permanent disability. Furthermore, the Pass is to be non-transferable and entitles the permittee and any person accompanying him/her in a single, private, non-commercial vehicle, or alternatively, the permittee and 3 adults to enter with him/her where entry to the area is by any means other than private, non-commercial vehicle. The Pass must be signed by the holder.

In order to issue the Interagency Access Pass only to persons who have been medically determined to be permanently disabled, in accordance with the FLREA and in order to clarify, simplify, and to provide uniform guidance for the public on the process for obtaining the Interagency Access Pass, the Secretaries of Agriculture and of the Interior established eligibility and required documentation guidelines for issuing the Interagency Access Pass and published them within the America the Beautiful—The National Parks and Federal Recreational Lands Pass Standard Operating Procedures. The current procedures require the individual to appear in person and sign the Pass in the presence of the issuing

agency officer. Acceptable documentation to verify that the individual had been medically determined to have a permanent disability has been identified and includes:

A statement signed by a licensed physician attesting that the applicant has a permanent physical, mental, or sensory impairment that substantially limits one or more major life activities, and stating the nature of the impairment; or

A document issued by a Federal agency, such as the Veteran's Administration, which attests that the applicant has been medically determined to be eligible to receive Federal benefits as a result of blindness or permanent disability. Other acceptable Federal agency documents include proof of receipt of Social Security Disability Income (SSDI) or Supplemental Security Income (SSI); or

A document issued by a State agency such as the vocational rehabilitation agency, which attests that the applicant has been medically determined to be eligible to receive vocational rehabilitation agency benefits or services as a result of medically determined blindness or permanent disability. Showing a State motor vehicle department disability sticker, license plate or hang tag is not acceptable documentation.

Information available to the general public through agency Web sites and publications will inform potential Pass applicants of the documentation requirements. However, there are instances where applicants learn about the Pass when arriving at a recreation site and do not have the required documentation available. For those instances, a fourth option is made available at recreation sites. If a person claims eligibility for the Access Pass but cannot produce any of the documentation outlined, that person must read, sign, and date the Statement of Disability Form in the presence of the officer issuing the Pass. If the applicant cannot read and/or sign, someone else may read, date, and sign the statement on his/her behalf in the applicant's presence, and in the presence of the officer issuing the Pass. The requested information and Statement of Disability have been collected and used since the creation of the Golden Access Passport in 1980 to verify that the individual had been medically determined to have a permanent disability for the issuance of the Golden Access Passport under OMB control number 0596–0173, under the authority of the Land and Water Conservation Fund Act.

This information collection is being revised in two ways. First, Interagency Access Passes will also be available through the mail by completing an application and sending in a photo copy of identification verifying U.S. residency or citizenship and documentation of disability as outlined above.

The second revision is to create a process by which a person can obtain an America the Beautiful—the National Parks and Federal Recreational Lands Senior Pass through the mail.

The FLREA requires the Secretary of Agriculture and the Secretary of the Interior to make the America the Beautiful—The National Parks and Federal Recreational Lands Pass available for $10 to any United States citizen or person domiciled in the United States 62 years of age or older. The Act further requires that the applicant provide adequate proof of age and such citizenship or residency. The Act specifies that the Pass shall be valid for the lifetime of the pass holder. The Pass is to be non-transferable and entitles the permittee and any person accompanying him/her in a single, private, non-commercial vehicle, or alternatively, the permittee and 3 adults to enter with him/her where entry to the area is by any means other than private, non-commercial vehicle. The Pass must be signed by the holder. The America the Beautiful—The National Parks and Federal Recreational Lands Senior Pass (Interagency Senior Pass) was created to meet the requirements of the FLREA.

The Interagency Senior Pass is currently only issued in person at Bureau of Land Management, Bureau of Reclamation, United States Fish and Wildlife Service, United States Forest Service, and the National Park Service recreation sites. To obtain a Pass, in accordance with the FLREA, applicants must show identification verifying age and citizenship or residency to the issuing official. Interagency Senior Passes will now also be available through the mail by completing an application and sending a photo copy of identification verifying age and U.S. residency or citizenship. Any and all information collected will be used solely to verify eligibility for a pass.

Description of respondents: United States citizens or persons domiciled in the United States who have been medically determined to be permanently disabled for the purposes of Section 7(20)(B)(i) of the Rehabilitation Act of 1973 (29 U.S.C. 705 (20)(B)(i)) and United States citizens or persons domiciled in the United States who are 62 years old or older and wish to acquire an America the Beautiful—The National Parks and Federal Recreational Lands Senior Pass through the mail.

Estimated average number of respondents: 69,730 Interagency Access Pass in person applicants, 3,670 mail applicants. 27,500 Interagency Senior Pass mail applicants.

Estimated average number of responses: 100,900 per year.

Estimated average time burden per response: 5 minutes in person, 10 minutes by mail.

Frequency of response: once per respondent.

Estimated total annual reporting burden: 11,006 hours.

Comments are invited on: (1) The practical utility of the information being gathered; (2) the accuracy of the burden hour estimate; (3) ways to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden to respondents, including use of automated information collection techniques or other forms of information technology. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: June 3, 2010.

Stephanie Leonard,

Acting Information Collection Clearance Officer, National Park Service.

[FR Doc. 2010–13793 Filed 6–8–10; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2010–N112; [40120–1112–0000–F5]

Emergency Issuance of Endangered Species Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the Fish and Wildlife Service (Service), have waived the 30-day public notice period and have issued endangered species permits to address emergency situations resulting from the Mississippi Canyon 252 oil spill.

ADDRESSES: Documents and other information submitted with the permits are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, GA 30345 (Attn: Cameron Shaw, Permit Coordinator).

FOR FURTHER INFORMATION CONTACT: Cameron Shaw, telephone 904/731–3191; facsimile 904/731–3045.

SUPPLEMENTARY INFORMATION: We have issued the following permits for activities with endangered and threatened species under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). We provide this notice under section 10(c) of the Act. Endangered Species Act regulations at title 50, Code of Federal Regulations (CFR) Part 17.22 allow us to waive public notice in an emergency situation where the life or health of an endangered animal is threatened and no reasonable alternative is available to the applicant.

The following permittees have been authorized to receive and retain, for greater than 45 days, Kemp's Ridley (*Lepidochelys kempii*), hawksbill (*Eretmochelys imbricata*), leatherback (*Dermochelys coriacea*), green (*Chelonia mydas*), loggerhead (*Caretta caretta*), and olive ridley (*Lepidochelys olivacea*) sea turtles for veterinary treatment or euthanasia under certain conditions.

TE014234, The Turtle Hospital, Marathon, Florida

TE12123A, Gumbo Limbo Nature Center, Boca Raton, Florida

TE12392A, Institute for Marine Mammal Studies, Gulfport, Mississippi

TE12399A, Audubon Nature Institute, Audubon Aquarium of the Americas, New Orleans, Louisiana

TE017853, Mote Marine Laboratory, Sarasota, Florida

TE017849, Gulf World, Panama City Beach, Florida

TE12549A, Gulf Exhibition Corp., Florida's Gulfarium, Ft. Walton Beach, Florida

Dated: May 25, 2010.

Mark J. Musaus,

Acting Regional Director.

[FR Doc. 2010–13925 Filed 6–8–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY922000–L13200000–EL0000, WYW179006]

Notice of Invitation To Participate; Coal Exploration License Application WYW179006, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Invitation To Participate in Coal Exploration License.

SUMMARY: Pursuant to the Mineral Leasing Act of 1920, as amended by the Federal Coal Leasing Amendments Act of 1976, and to Bureau of Land Management (BLM) regulations, all interested parties are hereby invited to participate with Black Butte Coal Company, on a pro rata cost-sharing basis, in its program for the exploration of coal deposits owned by the United States of America in Sweetwater County, Wyoming.

DATES: This notice of invitation was published in the Rock Springs Daily Rocket-Miner once each week for 2 consecutive weeks beginning the week of May 19, 2010, and in the **Federal Register.** Any party electing to participate in this exploration program must send written notice to both the BLM and Black Butte Coal Company, as provided in the **ADDRESSES** section below, no later than 30 days after publication of this invitation in the **Federal Register.**

ADDRESSES: Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW179006): Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003; and, Bureau of Land Management, Rock Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming 82901. The written notice should be sent to the following addresses: Black Butte Coal Company, *Attn:* Chad Petrie, P.O. Box 98, Point of Rocks, Wyoming 82942, and the Bureau of Land Management, Wyoming State Office, Branch of Solid Minerals, Attn: Joyce Gulliver, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Joyce Gulliver, Land Law Examiner, at 307–775–6208.

SUPPLEMENTARY INFORMATION: Black Butte Coal Company has applied to the BLM for a coal exploration license on public land adjacent to their coal mine. The purpose of the exploration program is to obtain structural and quality information of the coal. The BLM regulations at 43 CFR 3410 require the publication of an invitation to participate in the coal exploration in the **Federal Register.** The Federal coal resources included in the exploration license application are located in the following-described lands:

T. 19 N., R. 100 W., 6th P.M., Wyoming
Sec. 12: All.
Containing 640 acres, more or less.

The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the BLM. (Authority: 43 CFR 3410.2–1(c)(1))

Donald A. Simpson,

State Director.

[FR Doc. 2010–13837 Filed 6–8–10; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–920–1310–FI; CACA 44900]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease CACA 44900, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Reinstatement of Terminated Oil and Gas Leases.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease CACA 44900 from NW. Lost Hills Petroleum Holdings, LLC. The petition was filed on time and was accompanied by all required rentals and royalties accruing from February 1, 2010, the date of termination.

FOR FURTHER INFORMATION CONTACT: Rita Altamira, Land Law Examiner, Branch of Adjudication, Division of Energy and Minerals, BLM California State Office, 2800 Cottage Way, W–1623, Sacramento, California 95825, (916) 978–4378.

SUPPLEMENTARY INFORMATION: No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $10 per acre or fraction thereof and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and has reimbursed the BLM for the cost of this Federal Register notice. The Lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and

(e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate the lease effective February 1, 2010, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Debra Marsh,

Supervisor, Branch of Adjudication, Division of Energy & Minerals.

[FR Doc. 2010–13839 Filed 6–8–10; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

St. Croix Chippewa Indians of Wisconsin Alcoholic Beverage Control Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the Secretary's certification of the amended St. Croix Chippewa Indians of Wisconsin Alcoholic Beverage Control Ordinance. The amended Ordinance regulates and controls the possession, sale, and consumption of liquor within the tribal lands. The tribal lands are located in Indian Country and this Ordinance allows for possession and sale of alcoholic beverages within their boundaries. This Ordinance will increase the ability of the tribal government to control the tribe's liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation and strengthening of the tribal government and the delivery of tribal services.

DATES: *Effective Date:* This Ordinance is effective July 12, 2010.

FOR FURTHER INFORMATION CONTACT: David Christensen, Tribal Operations Officer, Midwest Regional Office, One Federal Drive, Room 550, Ft. Snelling, MN 55111, Telephone (612) 725–4554; or Elizabeth Colliflower, Office of Tribal Services, 1849 C Street, NW., Mail Stop 4513–MIB, Washington, DC 20240; Telephone (202) 513–7640.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner,* 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian Country. The St. Croix Tribal Council of the adopted this amended Liquor Ordinance on December 3, 2009. The purpose of this Ordinance is to govern the sale, possession and distribution of alcohol within the St. Croix tribal lands.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs. I certify that this Alcoholic Beverage Control Ordinance was duly adopted by the Tribal Council of the St. Croix Chippewa Indians of Wisconsin by Resolution No. 12–3–09–01 on December 3, 2009.

Dated: June 1, 2010.

Paul Tsosie,

Chief of Staff, Office of the Assistant Secretary—Indian Affairs.

The St. Croix Chippewa Indians of Wisconsin Alcoholic Beverage Control Ordinance reads as follows:

St. Croix Chippewa Indians of Wisconsin

Alcoholic Beverage Control Ordinance

The St. Croix Chippewa Indians of Wisconsin, a federally recognized Indian Tribe organized pursuant to the Act of June 18, 1934 (48 Stat. 984), acting pursuant to Article V of the Constitution of the St. Croix Chippewa Indians of Wisconsin and the Act of August 15, 1953, Public Law 83–277, 18 U.S.C. 1161, hereby establishes and enacts this Ordinance to authorize, license and regulate alcoholic beverages within the Indian country under the jurisdiction of the St. Croix Chippewa Indians of Wisconsin.

Section 1. Title

This Ordinance shall be known as the St. Croix Chippewa Indians of Wisconsin Alcoholic Beverage Control Ordinance.

Section 2. Definitions

As used in this Ordinance:

(a) "Alcoholic Beverages" shall mean fermented malt beverages and intoxicating liquor.

(b) "Fermented Malt Beverages" shall mean any beverage made by the alcohol fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar containing 0.5% or more of alcohol by volume.

(c) "License" shall mean any Class A or Class B Beer License, any Class A or Class B Liquor License, and any Beer or Liquor Wholesalers License.

(d) "Intoxicating Liquor" shall mean all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing 0.5% or more of alcohol by volume, which are beverages, but does not include "Fermented Malt Beverages."

(e) "Minor" shall mean any person under twenty-one (21) years of age.

(f) "Tribe" shall mean the St. Croix Chippewa Indians of Wisconsin.

(g) "Council" shall mean the duly elected governing body of the St. Croix Chippewa Indians of Wisconsin.

(h) "Package" shall mean the original container or receptacle used for holding intoxicating liquor or fermented malt beverages.

(i) "Possession" or "Possessing" shall mean control over one's person, vehicle or other property and includes constructive possession through control without regard to ownership.

(j) "Premises" shall mean the area described in a License.

(k) "Purchase" shall mean exchange, barter, traffic, receipt, with or without consideration in any form.

(l) "Sale" shall mean exchange, barter, traffic, donation, with or without consideration, in addition to the selling, supplying or distribution by any means, by any person to any person.

(m) "Transportation" or "Transport" shall mean the introduction of alcoholic beverage onto the Indian country under the jurisdiction of the Tribe by any means of conveyance for the purpose of sale or distribution.

Section 3. Conformity With Tribal and State Law Required

The introduction, possession, transportation, and sale of alcoholic beverages shall be lawful within the Indian country under the jurisdiction of the Tribe, provided that such introduction, possession, transportation, and sale are in conformity with the provisions of this Ordinance and the laws of the State of Wisconsin pursuant to 18 U.S.C. 1161.

Section 4. Tribal License Required

No person or entity shall engage in the sale of any alcoholic beverage within the Indian country under the jurisdiction of the Tribe, unless duly licensed to do so by the State of Wisconsin and the Tribe in accordance with the terms of this Ordinance.

Section 5. Retail License Classes

The Council may issue licenses to retailers in the following classes.

(a) "Class A Beer License," shall authorize the retail sale of fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles.

(b) "Class B Beer License," shall authorize the retail sale of fermented malt beverages either for consumption on or off the premises where sold and in the original packages, containers or bottles if sold for off premises consumption.

(c) "Class A Liquor License," shall authorize the retail sale of alcoholic beverages only for consumption away from the premises where sold and in the original packages, containers or bottles.

(d) "Class B Liquor License," shall authorize the sale of alcoholic beverages to be consumed by the glass only on the premises where sold and also authorizes the sale of alcoholic beverages in the original package or container, to be consumed off the premises where sold.

(e) "Temporary License," shall be a Class B Beer License issued to bonafide clubs, fair

associations or agricultural societies, fraternal organizations, or veterans organizations for particular meetings, picnics, or similar gatherings for not more than seven days.

Section 6. Wholesale License Classes

The Council may issue licenses to wholesalers in the following classes:

(a) "Beer Wholesaler License," shall authorize the sale of fermented malt beverages from premises located within Indian country under the jurisdiction of the Tribe, only in the original package or container, to retailers or wholesalers, not to be consumed in or about the premises where sold.

(b) "Liquor Wholesaler License," shall authorize the sale of alcoholic beverages from premises located within Indian country under the jurisdiction of the Tribe, only in the original package or container in quantities of not less than four liters at any one time to retailers or wholesalers, not to be consumed in or about the premises where sold.

Section 7. License Fees

The Council shall by resolution set the annual fee for each class of license and combination thereof. The fee shall be prorated for the remaining months of the year if the License is obtained after March 1.

Section 8. Application for Tribal License; Requirements

Application for a License shall be made to the Council by the person or authorized representative of the entity which seeks to sell and serve alcoholic beverages. No Tribal License shall issue under this Ordinance except upon sworn application, containing a full and complete showing of the following:

(a) The name and address of the person or entity making the application;

(b) If the applicant is a corporation, partnership, or other non-governmental entity, identification of all persons or entities holding an ownership interest of ten percent (10%) or more in that entity and all persons having authority to control or manage the entity. All such individuals are referred to hereinafter as "owners and managers";

(c) The description of the premises in which the alcoholic beverages are to be sold and proof that the applicant is the owner of the premises, or the lessee of the premises for the term of the License;

(d) Agreement by the applicant, its owners and managers, to accept and abide by all conditions of the Tribal License, to obey all Tribal ordinances, regulations, and other applicable Tribal law, and to consent to the jurisdiction of the Tribal Court for enforcement of all applicable law;

(e) Satisfactory proof that the applicant, its owners and managers, are of good character and reputation and that the applicant, its owners and managers are financially responsible;

(f) Agreement by the applicant, and all of the applicant's owners and managers, to submit to and satisfactorily pass a criminal history and financial background check. An applicant or any of its owners or managers will be found to have failed a criminal history background check if any of them have been convicted of or pled guilty to any felony at any time, or any misdemeanor within the last five years that involved or related to: liquor, controlled substances, violence, theft, dishonesty, bribery, obstruction of law enforcement, tampering with witnesses, gambling, exploitation of children or any other crime where a child is the victim, any crime involving loss or destruction of Tribal property, as well as conspiracy or attempt to commit any of the foregoing crimes. An applicant or any of its owners or managers will be found to have failed a financial background check if any of them have declared bankruptcy or insolvency within the past five years, are delinquent on any debt owed to or guaranteed by the Tribe, any agency of the Tribe, or corporation owned or controlled by the Tribe, or any of them have any other delinquent debts or obligations which indicate that the applicant is not financially responsible;

(g) Information stating whether the applicant, its owners and managers, have previously applied for a liquor license from any jurisdiction, the name of the jurisdiction, the date(s) of such application, whether the license was granted, and if granted, the period the license was in effect, and satisfactory proof that the applicant, its owners and managers, have not previously been denied a liquor license, or found to have violated the terms or conditions of any liquor license, or had any liquor license revoked or cancelled;

(h) Evidence that the applicant is or will be duly licensed under the laws of the State of Wisconsin;

(i) Satisfactory proof that notice of the application has been posted in a prominent, noticeable place on the premises where alcoholic beverages are to be sold for at least 30 days prior to consideration by the Council and has been published at least twice in such local newspaper serving the community that may be affected by the License as the Tribal Chairman or Secretary may authorize. The notice shall state the date, time and place when the application shall be considered by the Council;

(j) Payment of a non-refundable application fee of $250, or $50 for a Temporary License;

(k) Such other information as the Council may require.

Section 9. Hearing on Application for a License

All applications for a License shall be acted upon by the Council within 45 days from the time a completed application is received by the Council. All applications for a License shall be considered by the Council in open session at which the applicant, and any person(s) supporting or opposing the application shall have the right to be present, and to offer sworn oral or documentary evidence relevant to the application. After the hearing, the Council, by secret ballot, shall determine whether to grant or deny the application, based on whether the Council, in its discretion, determines that granting the License is in the best interests of the Tribe, including the health and safety of the public.

Section 10. Conditions of a License

Any Tribal License issued under this Ordinance shall be subject to such reasonable conditions as the Council shall fix including, but not limited to, the following:

(a) The License (other than a Temporary License) shall be for a term of not more than one year and each License shall expire on January 1. A Temporary License shall be for a specified period of not to exceed seven days.

(b) The licensee shall at all times maintain an orderly, clean, and neat establishment, both inside and outside the licensed premises.

(c) The licensed premises shall be subject to patrol by the Tribal Police Department, and such other law enforcement officials as may be authorized under Tribal, federal or state law, and the licensee shall cooperate with all duly authorized law enforcement officers.

(d) The licensed premises shall be open to inspection by duly authorized Tribal officials at all times during the regular business hours.

(e) Subject to the provisions of Subsection (f) of this section, no alcoholic beverages shall be sold, served, disposed of, delivered, or given to any person, or consumed on a licensed premises except in conformity with the hours and days prescribed by the laws of Wisconsin, and in accordance with the hours and days fixed by the Council, provided that the licensed premises shall not open earlier or operate or close later than is permitted by the laws of Wisconsin.

(f) No alcoholic beverages shall be sold:

(1) Within 200 feet of a polling place on tribal election days, or when a referendum is held of the people of the Tribe, or

(2) On special days of observance as designated by the Council.

(g) All acts and transactions under authority of a Tribal License shall be in conformity with the License, this Ordinance, and other applicable Tribal and State law.

(h) No person under the age of 21 shall be sold, served, delivered, given or allowed to consume alcoholic beverages in or by a licensee. Where there may be a question of a person's right to purchase an alcoholic beverage by reason of his or her age, such person shall be required to present any one of the following forms of identification which shows his or her correct age and bears his or her signature and photograph:

(1) A driver's license of any state or tribe or identification card issued by any state or tribal department of motor vehicles;

(2) United States active duty military ID;

(3) A passport; or

(4) A St. Croix Chippewa tribal identification card or other recognized tribal identification card.

(i) Licenses, except for Temporary Licenses, shall expire January 1 of each year. Any person or entity seeking a License for a subsequent year shall, by November 15 of the prior year, comply with the procedures and meet all the requirements of Sections 8 and 9 of this Ordinance.

(j) Every licensee shall post and keep its License in a conspicuous place on the premises.

Section 11. Prohibited Activities

It shall be a violation of this Ordinance for any person:

(a) To sell or offer for sale or distribute or transport in any manner, any alcoholic

beverage or to have alcoholic beverages in his possession with intent to sell or distribute without a License;

(b) To buy any alcoholic beverage from any person other than a person or entity holding a License as required by this Ordinance;

(c) To sell or provide any alcoholic beverage to any person under the age of 21 years;

(d) To permit any person under the age of 21 years to consume any alcoholic beverage on his or her premises or any premises under his or her control;

(e) To transfer in any manner an identification of age to a minor for the purpose of permitting such minor to obtain any alcoholic beverage;

(f) To attempt to purchase an alcoholic beverage through the use of a false or altered identification;

(g) To consume, acquire or have in his or her possession any alcoholic beverage while under 21 years of age.

(h) To sell alcoholic beverages during hours not permitted by Tribal law.

(i) To sell alcoholic beverages to any person known or believed to be intoxicated.

Section 12. Enforcement

(a) Criminal Penalties. A violation of this Ordinance by any person subject to the criminal jurisdiction of the Tribe is a misdemeanor and may be prosecuted by the Tribe pursuant to Title_of the Tribal Code.

(b) Civil fines. The Tribe may bring a civil action in the Tribal Court against any person or entity for violation of this Ordinance or the terms of a License issued under this Ordinance, and a person found to have violated this Ordinance or the terms of a License issued under the Ordinance may be subject to a civil fine of not to exceed $5,000 per violation.

(c) Injunctive relief. The Tribe may bring a civil action in the Tribal Court against any person or entity to enjoin a violation of this Ordinance.

(d) Contraband. Alcoholic beverages confiscated from any person found in violation of this Ordinance are declared to be contraband. Where a person is found to have violated this Ordinance, all alcoholic beverages in such person's possession shall be contraband. Any tribal agent, employee, or officer who is authorized by the Council to enforce this Ordinance shall have the authority to, and shall, seize all contraband. Any officer seizing contraband shall preserve the contraband in accordance with applicable Tribal and State law. Upon being found in violation of this Ordinance by the Tribal Court, the party shall forfeit all right, title and interest in the items seized which shall become the property of the Tribe.

(e) Notice of violation.

(1) The Council may appoint a law enforcement officer or other person as Alcoholic Beverage Control Agent ("Agent") for the purpose of investigating, reporting and seeking corrective action with respect to violations of this Ordinance and Licenses under this Ordinance. Where it appears, based on an investigation done by the Agent, that a violation has occurred, but may be cured by having the licensee take corrective action, the Agent may issue a written Notice of Violation to the licensee describing the violation and, as appropriate, describing the corrective action to be taken. A copy of the Notice of Violation shall also be provided to the Council.

(2) The appropriate corrective action will depend on the specific facts and circumstances of the violation as well as any history of prior violations with regard to the licensee. Corrective action may include, but will not necessarily be limited to, requirements for additional management or employee training, the improvement of internal polices and procedures, and the taking of appropriate personnel action with regard to negligence or misconduct by an employee of the licensee. The Notice of Violation will also require the licensee to submit a written report to the Agent, with a copy to the Council, on the corrective action taken and shall set a deadline by which this is to occur.

(3) If the licensee disputes the findings contained in the Notice of Violation or the directive on corrective action, the licensee shall submit to the Agent, within five business days of receipt of the Notice, a written statement of the basis for its disagreement and any evidence in support of its position. A copy shall also be provided to the Council. The Agent will then review the licensee's response, conduct such additional investigation as the Agent deems appropriate, and then submit to the licensee a written notice that either reconfirms, modifies or withdraws the original Notice of Violation.

(4) If the licensee continues to dispute the findings contained in the Notice of Violation or the directive for corrective action, the licensee may appeal that Notice by submitting to the Agent and the Council, within 5 business days from receipt of the Agent's final decision, a written request for a hearing before the Council. The Council shall send written notices of the hearing to the licensee and the Agent, on the time and place of the hearing. A decision by the Council on an appeal from a Notice of Violation shall be final.

(f) Suspension or revocation of License.

(1) Any License issued under this Ordinance may be suspended or revoked by the Council for violation of any of the provisions of this Ordinance, or of the Tribal License. The Council may consider License suspension or revocation based on information provided by the Alcoholic Beverage Control Agent, or a member of the public. A Notice of Violation is not required prior to Council consideration of suspension or revocation of a License.

(2) A License shall not be suspended or revoked except following a hearing before the Council after 10 days notice to the licensee. The notice will be delivered in person or by certified mail with the Council retaining proof of service. The notice will set out the rights of the alleged violator, including but not limited to the right to an attorney to represent the alleged violator, the right to speak and to present witnesses and to cross-examine any witnesses against them.

(3) The Council shall grant all persons in any hearing regarding a License suspension or revocation all the rights and due process granted by the Indian Civil Rights Act, 25 U.S.C. 1302, *et seq.* At the hearing, the grounds for the alleged violation shall be presented by the Agent, or such other person as may be designated for such purpose by the Council. Upon hearing the evidence presented and finding that a breach of this Ordinance or the terms and conditions of any License has occurred, the Council shall have the authority to impose one or more of the following sanctions:

(i) Issue a written reprimand for a minor violation;

(ii) Impose conditions on the License or require that the licensee take corrective action, including, but not limited to, requirements for additional management or employee training, improvement of internal policies and procedures, the taking of appropriate personnel action with regard to negligence or misconduct by an employee of the licensee;

(iii) Impose a civil fine of not to exceed $5,000 per violation;

(iv) Suspend the license for a specified period of time; or

(v) Revoke the license.

The decision of the Council shall be final.

Section 13. License Not a Property Right

Notwithstanding any other provision of this Ordinance, a License under this Ordinance is a mere permit for a fixed duration of time. A License under this Ordinance shall not be deemed a property right or vested right of any kind, nor shall the granting of a License under this Ordinance give rise to a presumption or legal entitlement to the granting of such License for a subsequent time period.

Section 14. Assignment or Transfer

No tribal License issued under this Ordinance shall be assigned or transferred without the written approval of the Council expressed by formal resolution and upon prior satisfaction of the conditions required for a License as set out in Sections 8 and 9.

Section 15. Severability

If a court of competent jurisdiction invalidates any part of this Ordinance, all valid parts that are severable from the invalid part shall remain in effect. If a part of this Ordinance is invalid in one or more of its applications, that part shall remain in effect in all valid applications that are severable from the invalid applications.

Section 16. Repealer

All prior Tribal ordinances regulating alcoholic beverages within the Indian country under the jurisdiction of the Tribe, including the Ordinance approved by the Council pursuant to Resolution 5–18–92–1, are hereby repealed, upon the effective date of this Ordinance.

Section 17. Sovereign Immunity

Notwithstanding any other provision of law, nothing contained in this Ordinance in any way limits, alters, restricts, or waives the Tribe's sovereign immunity.

Section 18. Effective Date

This Ordinance shall be effective upon its certification by the Secretary of the Interior

and its publication 30 days after publication in the **Federal Register.**

[FR Doc. 2010–13809 Filed 6–8–10; 8:45 am]

BILLING CODE 4310–4J–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Evidence

AGENCY: Judicial Conference of the United States Advisory Committee on Rules of Evidence.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Evidence will hold a one-day meeting. The meeting will be open to public observation but not participation.

DATES: October 12, 2010.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: The Inn at Rancho Santa Fe, 5951 Linea Del Cielo, Rancho Santa Fe, CA 92091.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: June 3, 2010.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 2010–13962 Filed 6–8–10; 8:45 am]

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Appellate Procedure

AGENCY: Judicial Conference of the United States Advisory Committee on Rules of Appellate Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Appellate Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATE: October 7–8, 2010.

TIME: 8:30 a.m. to 5 p.m.

ADDRESS: The Langham Hotel, 250 Franklin Street, Boston, MA 02110.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: June 3, 2010.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 2010–13963 Filed 6–8–10; 8:45 am]

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Bankruptcy Procedure

AGENCY: Judicial Conference of the United States Advisory Committee on Rules of Bankruptcy Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Bankruptcy Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: September 30–October 1, 2010.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: The Bishop's Lodge Resort & Spa, 1297 Bishop's Lodge Road, Santa Fe, NM 87506.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: June 3, 2010.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 2010–13964 Filed 6–8–10; 8:45 am]

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Civil Procedure

AGENCY: Judicial Conference of the United States Advisory Committee on Rules of Civil Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Civil Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: November 15–16, 2010.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: Thurgood Marshall Federal Judiciary Building, Mecham Conference Center, One Columbus Circle, NE., Washington, DC 20544.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: June 3, 2010.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 2010–13967 Filed 6–8–10; 8:45 am]

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Criminal Procedure

AGENCY: Judicial Conference of the United States Advisory Committee on Rules of Criminal Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Criminal Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATE: September 27–28, 2010.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: The Charles Hotel, 1 Bennett Street, Cambridge, MA 02138.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: June 3, 2010.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 2010–13966 Filed 6–8–10; 8:45 am]

BILLING CODE 2210–55–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors Finance Committee Amended Notice

CHANGES TO THE MEETING DATE AND TIME: The Legal Services Corporation (LSC) is announcing an amendment to the notice of the joint meeting of the Board of Directors' Audit and Operations & Regulations Committees (Joint Committees). The meeting, originally noticed to be convened at 1 p.m., on June 9, 2010, will be announced in the **Federal Register** dated June 7, 2010, Volume 75. The amendment is being made to reflect changes to the meeting date and time. There are no other changes.

AMENDED DATE AND TIME: The Joint Committees will meet June 15, 2010 commencing at 10:30 a.m., Eastern Time.

LOCATION: Legal Services Corporation, 3333 K Street, NW., 3rd Floor Conference Center, Washington, DC 20007.

CALL-IN DIRECTIONS FOR OPEN SESSION(S):

- Call toll-free number: 1– (866) 451–4981;
- When prompted, enter the following numeric pass code: 5907707348;
- When connected to the call, please "MUTE" your telephone immediately.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of agenda
2. Approval of draft minutes of April 17, 2010 joint meeting of the committees
3. Consider and act on revisions to the LSC Accounting Guide for LSC Recipients
- Presentation by Danilo Cardona, Director, Office of Compliance & Enforcement
- Public Comment
4. Public comment
5. Consider and act on other business
6. Consider and act on adjournment of meeting

CONTACT PERSON FOR INFORMATION: Katherine Ward, Executive Assistant to the Vice President for Legal Affairs, at (202) 295–1500. Questions may be sent by electronic mail to FR_NOTICE_QUESTIONS@lsc.gov.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Katherine Ward at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov.*

Dated: June 4, 2010.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 2010–13899 Filed 6–7–10; 11:15 am]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

NOTICE: (10–063).

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 days from the date of this publication.

ADDRESSES: All comments should be addressed to Brenda J. Maxwell, Office of the Chief Information Officer, Mail Suite 2S71, 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 Brenda J. Maxwell, Office of the Chief Information Officer, NASA Headquarters, 300 E Street, SW., Mail Suite 2S71, Washington, DC 20546, (202) 358–4616, *brenda.maxwell@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This clearance request pertains to the administration of data collection instruments designed to gather information on change, or growth, made in various domains of STEM awareness, motivation and efficacy, and career pathways, as it relates to NASA's Summer of Innovation. These outcomes are not available unless collected via surveys to students and teachers. The evaluation is an important opportunity to examine the extent to which the SOI-supported activities meet their intended objectives.

II. Method of Collection

Electronic Survey.

III. Data

Title: NASA Summer of Innovation (SOI) Pilot.

OMB Number: 2700–XXXX.

Type of Review: New.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 7,100.

Estimated Time per Response: Voluntary.

Estimated Total Annual Burden Hours: 1,775.

Estimated Total Annual Cost: $6,166.

IV. Requests 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.

Brenda J. Maxwell,

NASA PRA Clearance Officer.

[FR Doc. 2010–13739 Filed 6–8–10; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that eight meetings of the Arts Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506 as follows (ending times are approximate):

Design (application review): June 29–June 30, 2010 in Room 730. A portion of this meeting, from 1:30 p.m. to 2:30 p.m. on June 30th, will be open to the public for a policy discussion. The remainder of the meeting, from 9 a.m. to 5:30 p.m. on June 29th, and from 9 a.m. to 1:30 p.m. and 2:30 p.m to 3:30 p.m. on June 30th, will be closed.

Theater (application review): June 28–July 1, 2010 in Room 716. A portion of this meeting, from 9 a.m. to 10 a.m. on June 30th, will be open to the public for a policy discussion. The remainder of the meeting, from 9 a.m. to 5:30 p.m. on June 28th, from 9 a.m. to 6 p.m. on June 29th, from 10 a.m. to 6 p.m. on June 30th, and from 9 a.m. to 3 p.m. on July 1st, will be closed.

Musical Theater (application review): July 8–9, 2010 in Room 716. This meeting, from 9 a.m. to 6 p.m. on July 8th and from 9 a.m. to 3 p.m. on July 9th, will be closed.

Music (application review): July 13–16, 2010 in Room 714. This meeting, from 9 a.m. to 6 p.m. on July 13th–15th, and from 9 a.m. to 3:30 p.m. on July 16th, will be closed.

Visual Arts (application review): July 13–16, 2010 in Room 716. This meeting, from 9 a.m. to 5:30 p.m. on July 13th, from 9 a.m. to 6 p.m. on July 14th and 15th, and from 9 a.m. to 3 p.m. on July 16th, will be closed.

Museums (application review): July 20–23, 2010 in Room 730. This meeting, from 9 a.m. to 5:30 p.m. on July 20th, from 9 a.m. to 6 p.m. on July 21st and 22nd, and from 9 a.m. to 3 p.m. on July 23rd, will be closed.

Theater (application review): July 20–23, 2010 in Room 714. A portion of this meeting, from 9 a.m. to 10 a.m. on July 22nd, will be open to the public for a policy discussion.

The remainder of the meeting, from 9 a.m. to 5:30 p.m. on July 20th, from 9 a.m. to 6 p.m. on July 21st, from 10 a.m. to 6 p.m. on July 22nd, and from 9 a.m. to 3 p.m. on July 23rd, will be closed.

Music (application review): July 27–30, 2010 in Room 714. This meeting, from 9 a.m. to 6 p.m. on July 27th–29th and from 9 a.m. to 3:30 p.m. on July 30th, will be closed.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of November 10, 2009, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman. If you need any accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5691.

Dated: June 4, 2010.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 2010–13836 Filed 6–8–10; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Endowment for the Arts; National Council on the Arts 170th Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on June 24–25, 2009 in Rooms 527 and M–09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting, from 12:30 p.m.–2 p.m. on June 24th, will be closed for National Medal of Arts review and recommendations. The remainder of the meeting, from 9 a.m. to 11 a.m. on June 26th (ending time is approximate) in Room M–09, will be open to the public on a space available basis. After opening remarks and announcements, there will be Congressional/White House updates, followed by a Research & Analysis report. There also will be a presentation on the Blue Star Museum Initiative by Kathy Roth-Douquet, the board chairman of Blue Star Families. The Council will then review and vote on applications and guidelines, and the meeting will adjourn after concluding remarks.

The closed portions of meetings are for the purpose of review, discussion, evaluation, and recommendations on awards under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of November 10, 2009, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

If, in the course of the open session discussion, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b. Additionally, discussion concerning purely personal information about individuals, submitted with grant applications, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b.

Any interested persons may attend, as observers, Council discussions and reviews that are open to the public. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, (202) 682–5532, TTY–TDD (202) 682–5429, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from the Office of Communications, National Endowment for the Arts, Washington, DC 20506, at (202) 682–5570.

Dated: June 4, 2009.

Kathy Plowitz-Worden,

Panel Coordinator, Office of Guidelines and Panel Operations.

[FR Doc. 2010–13860 Filed 6–8–10; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services; Sunshine Act Meeting of the National Museum and Library Services Board

AGENCY: Institute of Museum and Library Services (IMLS), NFAH.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the agenda of the forthcoming meeting of the National Museum and Library Services Board. This notice also describes the function of the Board. Notice of the meeting is required under the Sunshine in Government Act.

TIME AND DATE: Thursday, June 17, 2010 from 12 p.m. to 5 p.m.

AGENDA: Twentieth Meeting of the National Museum and Library Service Board Meeting:

12 p.m.–1 p.m. Executive Session.
(Closed to the Public)
1:15 p.m.–3 p.m. Jury Meeting to consider the National Medals for Museum Services.
(Closed to the Public)
3:15 p.m.–5 p.m. Jury Meeting to consider the National Medals for Library Services.
(Closed to the Public)

PLACE: The meetings will be held in the Board room at the Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC 20036. Telephone: (202) 653–4676.

TIME AND DATE: Friday, June 18, 2010 from 8:30 a.m. to 12:30 p.m.

AGENDA: Twentieth National Museum and Library Services Board Meeting:

8:30 a.m.–9 a.m. National Award Recommendations.
(Closed to Public)
9:30 a.m.–12:30 p.m. Twentieth National Museum and Library Services Board Meeting:
I. Welcome
II. Approval of Minutes
III. Financial Update
IV. Legislative Update
V. Board Program: Digital Inclusion: The Role of Libraries and Museums
VI. Board Updates
VII. Adjournment
(Open to the Public)

PLACE: The meetings will be held in the Board room at the Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC 20036. Telephone: (202) 653–4676.

FOR FURTHER INFORMATION CONTACT: Elizabeth Lyons, Special Events and Board Liaison, Institute of Museum and Library Services, 1800 M Street, NW.,

9th Floor, Washington, DC 20036. Telephone: (202) 653–4676.

SUPPLEMENTARY INFORMATION: The National Museum and Library Services Board is established under the Museum and Library Services Act, 20 U.S.C. Section 9101 *et seq*. The Board advises the Director of the Institute on general policies with respect to the duties, powers, and authorities related to Museum and Library Services.

The Executive Session and the Jury Meetings to consideration the National Medal for Museum and Library Services on Thursday, June 17, 2010, and the National Award Recommendations on Friday, June 18, 2010 from 8:30 a.m. to 9 a.m. will be closed pursuant to subsections (c)(4) and (c)(9) of section 552b of Title 5, United States Code because the Board will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileged or confidential; and information the premature disclosure of which would he likely to significantly frustrate implementation of a proposed agency action. The meeting from 9:30 a.m. until 12:30 p.m. on Friday, June 18, 2010 is open to the public. If you need special accommodations due to a disability, please contact: Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC 20036. Telephone: (202) 653–4676: TDD (202) 653–4614 at least seven (7) days prior to the meeting date.

Dated: June 3, 2010.

Kate Fernstrom,

Chief of Staff.

[FR Doc. 2010–13727 Filed 6–8–10; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2010–0091]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on March 16, 2010.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* NRC Forms 540 and 540A, "Uniform Low-Level Radioactive Waste Manifest (Shipping Paper) and Continuation Page;" NRC Forms 541 and 541A, "Uniform Low-Level Radioactive Waste Manifest, Container and Waste Description, and Continuation Page;" NRC Forms 542 and 542A, "Uniform Low-Level Radioactive Waste Manifest, Index and Regional Compact Tabulation, and Continuation Page."

3. *Current OMB approval number:* 3150–0164, 3150–0166, and 3150–0165.

4. *The form number if applicable:* NRC Form 540 and 540A, NRC Form 541 and 541A, and NRC Form 542 and 542A.

5. *How often the collection is required:* Forms are used by shippers whenever radioactive waste is shipped. Quarterly or less frequent reporting is made to Agreement States depending on specific license conditions. No reporting is made to the NRC.

6. *Who will be required or asked to report: All NRC or Agreement State low-level waste* facilities licensed pursuant to 10 CFR Part 61 or equivalent Agreement State regulations. All generators, collectors, and processors of low-level waste intended for disposal at a low-level waste facility must complete the appropriate forms.

7. *An estimate of the number of annual responses:* NRC Form 540 and 540A: 5,600. NRC Form 541 and 541A: 5,600. NRC Form 542 and 542A: 756.

8. *The estimated number of annual respondents:* NRC Form 540 and 540A: 220. NRC Form 541 and 541A: 220. NRC Form 542 and 542A: 22.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* NRC Form 540 and 540A: 4,200. NRC Form 541 and 541A: 18,480. NRC Form 542 and 542A: 567.

10. *Abstract:* NRC Forms 540, 541, and 542, together with their continuation pages, designated by the "A" suffix, provide a set of standardized forms to meet Department of Transportation (DOT), NRC, and State requirements. The forms were developed by NRC at the request of low-level waste industry groups. The forms provide uniformity and efficiency in the collection of information contained in manifests which are required to control transfers of low-level radioactive waste intended for disposal at a land disposal facility. NRC Form 540 contains information needed to satisfy DOT shipping paper requirements in 49 CFR Part 172 and the waste tracking requirements of NRC in 10 CFR Part 20. NRC Form 541 contains information needed by disposal site facilities to safely dispose of low-level waste and information to meet NRC and State requirements regulating these activities. NRC Form 542, completed by waste collectors or processors, contains information which facilitates tracking the identity of the waste generator. That tracking becomes more complicated when the waste forms, dimensions, or packagings are changed by the waste processor. Each container of waste shipped from a waste processor may contain waste from several different generators. The information provided on NRC Form 542 permits the States and Compacts to know the original generators of low-level waste, as authorized by the Low-Level Radioactive Waste Policy Amendments Act of 1985, so they can ensure that waste is disposed of in the appropriate Compact.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, Maryland 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html*. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by July 9, 2010. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Christine J. Kymn, Desk Officer, Office of Information and Regulatory Affairs (3150–0164, –0166 & –0165), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *Christine.J.Kymn@omb.eop.gov* or submitted by telephone at (202) 395–4638.

The NRC Clearance Officer is Tremaine Donnell, (301) 415–6258.

Dated at Rockville, Maryland, this 2nd day of June 2010.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2010–13863 Filed 6–8–10; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act; Notice of Public Hearing

June 10, 2010.

OPIC's Sunshine Act notice of its Public Hearing in Conjunction with each Board meeting was published in the **Federal Register** (Volume 75, Number 95, Page 27843) on May 18, 2010. No requests were received to provide testimony or submit written statements for the record; therefore, OPIC's public hearing scheduled for 2 PM, June 10, 2010 in conjunction with OPIC's June 24, 2010 Board of Directors meeting has been cancelled.

For Further Information Contact: Information on the hearing cancellation may be obtained from Connie M. Downs at (202) 336–8438, via facsimile at (202) 218–0136, or via e-mail at *Connie.Downs@opic.gov.*

Dated: June 7, 2010.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. 2010–13927 Filed 6–7–10; 4:15 pm]

BILLING CODE 3210–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12199]

North Carolina Disaster #NC–00028 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 North Carolina, dated 05/28/2010.

Incident: U.S. Highway 129 Landslide.

Incident Period: 03/14/2010 and continuing.

DATES: *Effective Date:* 05/28/2010.

EIDL Loan Application Deadline Date: 02/28/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the 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: Graham.

Contiguous Counties:

North Carolina: Cherokee, Macon, Swain.

Tennessee: Blount, Monroe.

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 121990.

The States which received an EIDL Declaration # are North Carolina, Tennessee.

(Catalog of Federal Domestic Assistance Number 59002)

Dated: May 28, 2010.

Karen G. Mills,

Administrator.

[FR Doc. 2010–13745 Filed 6–8–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12168 and #12169]

Kentucky Disaster Number KY–00032

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FEMA—1912—DR), dated 05/11/2010.

Incident: Severe Storms, Flooding, Mudslides, and Tornadoes.

Incident Period: 05/01/2010 and continuing.

Effective Date: 05/28/2010.

Physical Loan Application Deadline Date: 07/12/2010.

EIDL LOAN Application Deadline Date: 02/11/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the Commonwealth of Kentucky, dated 05/11/2010 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans):

Bourbon, Butler, Christian, Clark, Clinton, Crittenden, Cumberland, Edmonson, Estill, Hardin, Hopkins, Larue, Lee, Livingston, Ohio, Russell, Taylor, Wayne, Wolfe.

Contiguous Counties: (Economic Injury Loans Only):

Kentucky: Breckinridge, Caldwell, Daviess, Hancock, Jefferson, Lyon, Marshall, Mccracken, Mclean, Meade, Trigg, Union, Webster.

Illinois: Hardin, Massac, Pope.

Indiana: Harrison.

Tennessee: Montgomery, Pickett, Scott, Stewart.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2010–13757 Filed 6–8–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 12170 and # 12171]

Kentucky Disaster Number KY–00033

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the Commonwealth of Kentucky (FEMA–1912–DR), dated 05/11/2010.

Incident: Severe Storms, Flooding, Mudslides, and Tornadoes.

Incident Period: 05/01/2010 and continuing.

Effective Date: 05/28/2010.

Physical Loan Application Deadline Date: 07/12/2010.

Economic Injury (EIDL) Loan Application Deadline Date: 02/11/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and

Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the Commonwealth of Kentucky, dated 05/11/2010, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Bracken, Carroll, Crittenden, Gallatin, Harrison, Lee, Livingston, Lyon, Franklin, Marshall, Mclean, Montgomery, Morgan, Robertson, Trigg, Union, Wolfe.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2010–13758 Filed 6–8–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12201 and #12202]

Connecticut Disaster #CT–00014

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Connecticut (FEMA–1904–DR), dated 05/28/2010.

Incident: Severe Storms and Flooding.

Incident Period: 03/12/2010 through 05/17/2010.

Effective Date: 05/28/2010.

Physical Loan Application Deadline Date: 07/27/2010.

Economic Injury (EIDL) Loan Application Deadline Date: 02/28/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/28/2010, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans):

Fairfield, Middlesex, New Haven, New London, Windham.

Contiguous Counties (Economic Injury Loans Only):

Connecticut: Hartford, Litchfield, Tolland.
Massachusetts: Worcester.
New York: Dutchess, Putnam, Westchester.
Rhode Island: Kent, Providence, Washington.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	5.250
Homeowners Without Credit Available Elsewhere	2.625
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	3.625
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 122016 and for economic injury is 122020.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2010–13749 Filed 6–8–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12194 and #12195]

Oklahoma Disaster Number OK–00038

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Oklahoma (FEMA—1917—DR), dated 05/24/2010.

Incident: Severe Storms, Tornadoes, and Straight-Line Winds.

Incident Period: 05/10/2010 through 05/13/2010.

Effective Date: 05/28/2010.

Physical Loan Application Deadline Date: 07/23/2010.

EIDL Loan Application Deadline Date: 02/24/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Oklahoma, dated 05/24/2010 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans):

Creek, Garvin.

Contiguous Counties: (Economic Injury Loans Only):

Oklahoma: Grady, Pawnee, Payne, Tulsa.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2010–13755 Filed 6–8–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12132 and #12133]

Minnesota Disaster Number MN–00024

AGENCY: Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Minnesota (FEMA–1900–DR), dated 04/19/2010.

Incident: Flooding.

Incident Period: 03/01/2010 through 04/26/2010.

Effective Date: 05/28/2010.

Physical Loan Application Deadline Date: 06/18/2010.

Economic Injury (EIDL) Loan Application Deadline Date: 01/19/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance,

U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Minnesota, dated 04/19/2010, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Grant.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008).

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2010–13754 Filed 6–8–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12188 and #12189]

Mississippi Disaster Number MS–00039

AGENCY: Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Mississippi (FEMA–1916–DR), dated 05/14/2010.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 05/01/2010 through 05/02/2010.

Effective Date: 05/28/2010.

Physical Loan Application Deadline Date: 07/13/2010.

Economic Injury (EIDL) Loan Application Deadline Date: 02/14/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Mississippi, dated 05/14/2010, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Panola.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2010–13750 Filed 6–8–10; 8:45 am]

BILLING CODE 8025–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 6a–3; SEC File No. 270–0015; OMB Control No. 3235–0021.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) ("Act") sets out a framework for the registration and regulation of national securities exchanges. Under Rule 6a–3 (17 CFR 240.6a–3), one of the rules that implements Section 6, a national securities exchange (or an exchange exempted from registration based on limited trading volume) must provide certain supplemental information to the Commission, including any material (including notices, circulars, bulletins, lists, and periodicals) issued or made generally available to members of, or participants or subscribers to, the exchange. Rule 6a–3 also requires the exchanges to file monthly reports that set forth the volume and aggregate dollar amount of securities sold on the exchange each month. The information required to be filed with the Commission pursuant to Rule 6a–3 is designed to enable the Commission to carry out its statutorily mandated oversight functions and to ensure that registered and exempt exchanges continue to be in compliance with the Act.

The Commission estimates that each respondent makes approximately 25 such filings on an annual basis at an average cost of approximately $36 per response. Currently, 15 respondents (13 national securities exchanges and two exempt exchanges) are subject to the collection of information requirements of Rule 6a–3. The Commission estimates that the total burden for all respondents is 187.5 hours (25 filings/respondent per year × 0.5 hours/response × 15 respondents) and $13,500 ($36/response × 25 responses/respondent per year × 15 respondents) per year.

Compliance with Rule 6a–3 is mandatory for registered and exempt exchanges. Information received in response to Rule 6a–3 shall not be kept confidential; the information collected is public information. As set forth in Rule 17a–1 (17 CFR 240.17a–1) under the Act, a national securities exchange is required to retain records of the collection of information for at least five years.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Comments should be directed to (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Charles Boucher, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted within 30 days of this notice.

Dated: June 2, 2010.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–13830 Filed 6–8–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form 15F; OMB Control No. 3235–0621; SEC File No. 270–559.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information

summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form 15F (17 CFR 249.324) is filed by a foreign private issuer when terminating its Exchange Act reporting obligations under Exchange Act Rule 12h–6 (240.12h–6). Form 15F requires a filer to disclose information that helps investors understand the foreign private issuer's decision to terminate its Exchange Act reporting obligations and assist Commission staff in determining whether the filer is eligible to terminate its Exchange Act reporting obligations pursuant to Rule 12h–6. Compared to Exchange Act Rules 12g–4 (240.12g–4) and 12h–3 (240.12h–3), Rule 12h–6 makes it easier for a foreign private issuer to exit the Exchange Act registration and reporting regime when there is relatively little U.S. investor interest in its securities. Rule 12h–6 is intended to remove a disincentive for foreign private issuers to register initially their securities with the Commission by lessening their concern that the Exchange Act registration and reporting system is difficult to exit once an issuer joins it. We estimate that Form 15F takes approximately 30 hours to prepare and is filed by approximately 300 issuers. We estimate that 25% of the 30 hours per response (7.5 hours per response) is prepared by the filer for a total annual reporting burden of 2,250 hours (7.5 hours per response × 300 responses).

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Charles Boucher/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: June 2, 2010.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–13831 Filed 6–8–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form S–6; SEC File No. 270–181; OMB Control No. 3235–0184.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

The title for the collection of information is "Form S–6 (17 CFR 239.16), for Registration under the Securities Act of 1933 of Securities of Unit Investment Trusts Registered on Form N–8B–2 (17 CFR 274.13)." Form S–6 is a form used for registration under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) ("Securities Act") of securities of any unit investment trust ("UIT") registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) ("Investment Company Act") on Form N–8B–2.[1] Section 5 of the Securities Act (15 U.S.C. 77e) requires the filing of a registration statement prior to the offer of securities to the public and that the statement be effective before any securities are sold. Section 5(b) of the Securities Act requires that investors be provided with a prospectus containing the information required in a registration statement prior to the sale or at the time of confirmation or delivery of the securities.

Section 10(a)(3) of the Securities Act (15 U.S.C. 77j(a)(3)) provides that when a prospectus is used more than nine months after the effective date of the registration statement, the information therein shall be as of a date not more than sixteen months prior to such use. As a result, most UITs update their registration statements under the Securities Act on an annual basis in order that their sponsors may continue to maintain a secondary market in the units. UITs that are registered under the Investment Company Act on Form N–8B–2 file post-effective amendments to their registration statements on Form S–6 in order to update their prospectuses.

The purpose of Form S–6 is to meet the filing and disclosure requirements of the Securities Act and to enable filers to provide investors with information necessary to evaluate an investment in the security. This information collection differs significantly from many other federal information collections, which are primarily for the use and benefit of the collecting agency. The information required to be filed with the Commission permits verification of compliance with securities law requirements and assures the public availability and dissemination of the information.

The Commission estimates that there are approximately 938 initial registration statements filed on Form S–6 annually and approximately 1,116 annual post-effective amendments to previously effective registration statements filed on Form S–6. The Commission estimates that the hour burden for preparing and filing an initial registration statement on Form S–6 or for preparing and filing a post-effective amendment to a previously effective registration statement filed on Form S–6 is 35 hours. Therefore, the total burden of preparing and filing Form S–6 for all affected UITs is 71,890 hours.

The information collection requirements imposed by Form S–6 are mandatory. Responses to the collection of information will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection

[1] Form N–8B–2 is the form used by UITs other than separate accounts that are currently issuing securities, including UITs that are issuers of periodic payment plan certificates and UITs of which a management investment company is the sponsor or depositor to register under the Investment Company Act pursuant to Section 8 thereof.

techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: June 2, 2010.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–13832 Filed 6–8–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension: Rule 10b-10; SEC File No. 270–389; OMB Control No. 3235–0444.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (Commission) has submitted to the Office of Management and Budget a request for approval of extension of the previously approved collection of information provided for in Rule 10b-10 (17 CFR 240.10b–10) under the Securities and Exchange Act of 1934 (15 U.S.C. 78a *et seq.*)

Rule 10b–10 requires broker-dealers to convey basic trade information to customers regarding their securities transactions. This information includes: the date and time of the transaction, the identity and number of shares bought or sold, and the trading capacity of the broker-dealer. Depending on the trading capacity of the broker-dealer, Rule 10b–10 requires the disclosure of commissions as well as mark-up and mark-down information. For transactions in debt securities, Rule 10b–10 requires the disclosure of redemption and yield information. Rule 10b–10 potentially applies to all of the approximately 5,178 firms registered with the Commission that effect transactions on behalf of customers.

Based on information provided by registered broker-dealers to the Commission in FOCUS Reports, the Commission staff estimates that on average, registered broker-dealers process approximately 1.4 billion order tickets per month for transactions on behalf of customers. Each order ticket representing a transaction effected on behalf of a customer results in one confirmation. Therefore, the Commission staff estimates that approximately 16.8 billion confirmations are sent to customers annually. The confirmations required by Rule 10b–10 are generally processed through automated systems. It takes approximately 1 minute to generate and send a confirmation. Accordingly, the Commission estimates that broker-dealers spend 280 million hours per year complying with Rule 10b–10.

The amount of confirmations sent and the cost of sending each confirmation varies from firm to firm. Smaller firms generally send fewer confirmations than larger firms because they effect fewer transactions. The Commission staff estimates the costs of producing and sending a paper confirmation, including postage to be approximately 96 cents. The Commission staff also estimates that the cost of producing a sending a wholly electronic confirmation is approximately 52 cents. Based on informal discussions with industry participants as well as no-action positions taken in this area, the staff estimates that broker-dealers used electronic confirmations for approximately 25 percent of transactions. Based on these calculations, Commission staff estimates that 12,600,000,000 paper confirmations are mailed each year at a cost of $12,096,000,000. Commission staff also estimates that 4,200,000,000 wholly electronic confirmations are sent each year at a cost of $2,184,000,000. Accordingly, Commission staff estimates that total annual cost associated with generating and delivering to investors the information required under Rule 10b–10 would be $14,280,000,000.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Charles Boucher Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: June 2, 2010.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–13834 Filed 6–8–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form 1, Rules 6a–1 and 6a–2; SEC File No. 270–0017; OMB Control No. 3235–0017.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.)* the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

The Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.* (the "Act") sets forth a regulatory scheme for national securities exchanges. Rule 6a–1 (17 CFR 240.6a–1) under the Act generally requires an applicant for initial registration as a national securities exchange to file an application with the Commission on Form 1 (17 CFR 249.1). An exchange that seeks an exemption from registration based on limited trading volume also must apply for such exemption on Form 1. Rule 6a–2 (17 CFR 240.6a–2) under the Act requires registered and exempt exchanges: (1) To amend the Form 1 if there are any material changes to the information provided in the initial Form 1; and (2) to submit periodic updates of certain information provided in the initial Form 1, whether such information has changed or not. The information required pursuant to Rules 6a–1 and 6a–2 is necessary to enable the Commission to maintain accurate files regarding the exchange and to exercise its statutory oversight functions. Without the information submitted pursuant to Rule 6a–1 on Form 1, the Commission would not be able to determine whether the respondent met the criteria for registration or exemption set forth in Sections 6 and 19 of the Act. Without the amendments and periodic updates of information submitted pursuant to Rule 6a–2, the Commission would have

substantial difficulty determining whether a national securities exchange or exempt exchange was continuing to operate in compliance with the Act.

Initial filings on Form 1 by new exchanges are made on a one-time basis. The Commission estimates that it will receive approximately three initial Form 1 filings per year and that each respondent would incur an average burden of 47 hours to file an initial Form 1 at an average cost per response of approximately $10,354. Therefore, the Commission estimates that the annual burden for all respondents to file the initial Form 1 would be 141 hours (one response/respondent × three respondents × 47 hours/response) and $31,062 (one response/respondent × three respondents × $10,354/response).

There currently are thirteen entities registered as national securities exchanges and two exempt exchanges, for a total of 15 exchanges. The Commission estimates that each registered or exempt exchange files four amendments or periodic updates to Form 1 per year, incurring an average burden of 25 hours to comply with Rule 6a–2. The Commission estimates that the annual burden for all respondents to file amendments and periodic updates to the Form 1 pursuant to Rule 6a–2 is 1500 hours (15 respondents × 25 hours/response × four response/respondent per year) and $317,700 (15 respondents × $5,295/response × one response/respondent per year).

Compliance with Rules 6a–1 and 6a–2 and Form 1 is mandatory for entities seeking to register as a national securities exchange or seeking an exemption from registration based on limited trading volume. Information received in response to Rules 6a–1 and 6a–2 and Form 1 shall not be kept confidential; the information collected is public information. As set forth in Rule 17a–1 (17 CFR 240.17a–1) under the Act, a national securities exchange generally is required to retain records of the collection of information for at least five years.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Comments should be directed to (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Charles Boucher, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to the Office of Management and Budget within 30 days of this notice.

Dated: June 2, 2010.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–13833 Filed 6–8–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 29292; File No. 812–13748]

FFCM, LLC and FQF Trust; Notice of Application

June 2, 2010.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from rule 12d1–2(a) under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit open-end management investment companies relying on rule 12d1–2 under the Act to invest in certain financial instruments.

APPLICANTS: FFCM, LLC ("FFCM," and together with any entity controlling, controlled by or under common control with FFCM, the "Adviser") and FQF Trust ("Trust," and together with the Adviser, "Applicants").

FILING DATES: The application was filed on January 28, 2010, and amended on May 27, 2010.

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 applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on June 28, 2010 and should be accompanied by proof of service on applicants, 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, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090; Applicants: FFCM, LLC and FQF Trust, 230 Congress Street, 5th Floor, Boston, MA 02110.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 551–6876, or Michael W. Mundt, 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.

Applicants' Representations:

1. The Trust is organized as a Delaware statutory trust and is registered with the Commission as an open-end management investment company. The Adviser, a Delaware limited liability company, will register as an investment adviser under the Investment Advisers Act of 1940, as amended, prior to relying on the requested order. A broker-dealer registered under the Securities Exchange Act of 1934, as amended ("Exchange Act"), will be selected and will serve as distributor.

2. Applicants request the exemption to the extent necessary to permit any existing or future registered open-end management investment company or series thereof that (a) is advised by the Adviser, (b) is in the same group of investment companies, as defined in section 12(d)(1)(G) of the Act, (c) invests in shares of other registered open-end investment companies ("Underlying Funds") in reliance on section 12(d)(1)(G) of the Act, and (d) is also eligible to invest in securities (as defined in section 2(a)(36) of the Act) in reliance on rule 12d1–2 under the Act ("Funds of Funds"), to also invest, to the extent consistent with its investment objective, policies, strategies and limitations, in financial instruments that may not be securities within the meaning of section 2(a)(36) of the Act ("Other Investments"). Applicants state that all Funds of Funds and Underlying Funds are or will be registered with the Commission as open-end management investment companies.

3. Consistent with its fiduciary obligations under the Act, each Fund of Fund's board of trustees or directors will review the advisory fees charged by the Fund of Fund's investment adviser to ensure that they are based on services provided that are in addition to, rather than duplicative of, services provided

pursuant to the advisory agreement of any investment company in which the Fund may invest.

Applicants' Legal Analysis:

1. Section 12(d)(1)(A) of the Act provides that no registered investment company ("acquiring company") may acquire securities of another investment company ("acquired company") if such securities represent more than 3% of the acquired company's outstanding voting stock or more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or cause more than 10% of the acquired company's voting stock to be owned by investment companies and companies controlled by them.

2. Section 12(d)(1)(G) of the Act provides that section 12(d)(1) will not apply to securities of an acquired company purchased by an acquiring company if: (a) The acquired company and acquiring company are part of the same group of investment companies; (b) the acquiring company holds only securities of acquired companies that are part of the same group of investment companies, government securities, and short-term paper; (c) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) of the Act by a securities association registered under section 15A of the Exchange Act or by the Commission; and (d) the acquired company has a policy that prohibits it from acquiring securities of registered open-end investment companies or registered unit investment trusts in reliance on section 12(d)(1)(F) or (G) of the Act.

3. Rule 12d1–2 under the Act permits a registered open-end investment company or a registered unit investment trust that relies on section 12(d)(1)(G) of the Act to acquire, in addition to securities issued by another registered investment company in the same group of investment companies, government securities, and short-term paper: (a) Securities issued by an investment company that is not in the same group of investment companies, when the acquisition is in reliance on section 12(d)(1)(A) or 12(d)(1)(F) of the Act; (b) securities (other than securities issued by an investment company); and (c) securities issued by a money market fund, when the investment is in reliance on rule 12d1–1 under the Act. For the purposes of rule 12d1–2, "securities" means any security as defined in section 2(a)(36) of the Act.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction from any provision of the Act, or from any rule under the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

5. Applicants state that the proposed arrangement would comply with the provisions of rule 12d1–2 under the Act, but for the fact that the Funds of Funds may invest a portion of their assets in Other Investments. Applicants request an order under section 6(c) of the Act for an exemption from rule 12d1–2(a) to allow the Funds of Funds to invest in Other Investments. Applicants assert that permitting the Funds of Funds to invest in Other Investments as described in the application would not raise any of the concerns that the requirements of section 12(d)(1) were designed to address.

Applicants' Condition

Applicants agree that the order granting the requested relief will be subject to the following condition:

Applicants will comply with all provisions of rule 12d1–2 under the Act, except for paragraph (a)(2) to the extent that it restricts any Fund of Funds from investing in Other Investments as described in the application.

For the Commission, by the Division of Investment Management, under delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–13822 Filed 6–8–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62196; File No. SR–Phlx–2010–73]

Self-Regulatory Organizations; NASDAQ OMX PHLX, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Rebates for Adding and Fees for Removing Liquidity

June 1, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 20, 2010, NASDAQ OMX PHLX, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, 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 the Exchange's Fee Schedule to increase the number of options to be included in the Exchange's current rebates for adding, and fees for removing, liquidity. In addition, the Exchange proposes to clarify its rebates for adding and fees for removing liquidity, specifically the applicability of fees to electronic auctions.

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative for transactions settling on or after June 1, 2010.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqtrader.com/micro.aspx?id=PHLXfilings*, at the principal office of the Exchange, at the Commission's Public Reference Room, and on the Commission's Web site at *http://www.sec.gov.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is [sic] The Exchange proposes to increase liquidity and to attract order

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

flow by increasing the number of options to be included in the Exchange's current rebates for adding and fees for removing liquidity.

Specifically, the Exchange proposes to add the following twenty-five options: Ambac Financial Group, Inc. ("ABK"), Barrick Gold Corporation ("ABX"), Ariad Pharmaceuticals, Inc. ("ARIA"), American Express Company ("AXP"), Ciena Corp. ("CIEN"), Star Scientific, Inc. ("CIGX"), Dendreon Corp. ("DNDN"), eBay Inc. ("EBAY"), Corning Inc. ("GLW"), Halliburton Company ("HAL"), iShares Dow Jones US Real Estate ("IYR"), Motorola, Inc., ("MOT"), NVIDIA Corporation ("NVDA"), ON Semiconductor Corp. ("ONNN"), Oracle Corp. ("ORCL"), ProShares UltraShort, QQQ ("QID"), Transocean Ltd. ("RIG"), Rambus, Inc. ("RMBS"), ProShares UltraShort S&P500 ("SDS"), ProShares UltraShort 20+ Year Treasury ("TBT"), Visa, Inc. ("V"), Vale S.A. ("VALE"), SPDR S&P Homebuilders ("XHB"), Xerox Corp. ("XRX"), Yahoo! Inc. ("YHOO") collectively ("the options"). The options would be subject to the rebates for adding and fees for removing liquidity.

The Exchange currently assesses a per-contract transaction charge in various select symbols [3] (the "select Symbols") on six different categories of market participants that submit orders and/or quotes that "take," liquidity from the Exchange: (i) Specialists, Registered Options Traders ("ROTs"),[4] Streaming Quote Traders ("SQTs") [5] and Remote Streaming Quote Traders ("RSQTs"); [6] (ii) customers; [7] (iii) specialists, SQTs and RSQTs that receive Directed Orders ("Directed Participants" [8] or "Directed Specialists, RSQTs, or SQTs" [9]); (iv) Firms; (v) broker-dealers; and (vi) Professionals.[10] The current per-contract transaction charge depends on the category of market participant submit orders and/or quotes that "take," liquidity from the Exchange.

The Exchange also currently assesses a per-contract rebate of transaction charges for orders or quotations that add liquidity in the select Symbols. The amount of the rebate depends on the category of participant whose order or quote was executed as part of the Phlx Best Bid and Offer. The Exchange proposes to add the twenty-five additional options to the list of select Symbols applicable to the rebates for adding and fees for removing liquidity.

The Exchange also proposes to clarify its rebates for adding and fees for removing liquidity, specifically the applicability of fees to electronic auctions. Currently, the Exchange describes the applicability of rebates for adding liquidity and fees for removing liquidity, in an electronic auction, as follows: "Customer, Professional, Directed Participant and Specialist, ROT, SQT and RSQT fees for removing liquidity will not apply to transactions resulting from electronic auctions. Electronic auctions include, without limitation, the Complex Order Live Auction ("COLA"), and Quote and Market Exhaust auctions. Firm and Broker-Dealer fees for removing liquidity will, however apply to transactions resulting from electronic auctions." The Exchange proposes to make clear that a Specialist, ROT, including an SQT and RSQT, would not receive a rebate for adding liquidity in an electronic auction.[11] The Exchange proposes to add language to the Fee Schedule to clarify the applicability of rebates for adding liquidity in an electronic auction.

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative for transactions settling on or after June 1, 2010.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [12] in general, and furthers the objectives of Section 6(b)(4) of the Act [13] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members. The Exchange believes that the addition of the options to the rebates for adding and fees for removing liquidity is reasonable and equitable in that it will apply to all categories of participants in the same manner. The fees which are currently applicable to each market participant will continue to apply to the select Symbols.

The Exchange believes that clarifying the applicability of the rebates for adding liquidity in an electronic auction is reasonable because it clearly states when the rebate is applicable to certain transactions. The Exchange also believes that the clarification is equitable because it makes clear what fees will be assessed to Specialists, ROTs, including SQTs and RSQTs, in an electronic auction. Currently, Specialists, ROTs, including SQTs and RSQTs, do not receive rebates for adding liquidity in an electronic auction. The Exchange's proposal would add language to the Fee Schedule to state that with respect to electronic auctions, Specialists and ROTs would not receive a rebate, which language is consistent with the Exchange's current practice.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section

[3] The fees and rebates for adding and removing liquidity are applicable to executions in options overlying AA, AAPL, AIG, ALL, AMD, AMR, AMZN, BAC, BRCD, C, CAT, CSCO, DELL, DIA, DRYS, EK, F, FAS, FAZ, GDX, GE, GLD, GS, IBM, INTC, IWM, JPM, LVS, MGM, MSFT, MU, NEM, NOK, PALM, PFE, POT, QCOM, QQQQ, RIMM, SBUX, SIRI, SKF, SLV, SMH, SNDK, SPY, T, TZA, UAUA, UNG, USO, UYG, VZ, WYNN, X and XLF ("Symbols").

[4] A ROT includes a SQT, a RSQT and a Non-SQT, which by definition is neither a SQT or a RSQT. *See* Exchange Rule 1014 (b)(i) and (ii).

[5] An SQT is an Exchange Registered Options Trader ("ROT") who has received permission from the Exchange to generate and submit option quotations electronically through an electronic interface with AUTOM via an Exchange approved proprietary electronic quoting device in eligible options to which such SQT is assigned. *See* Exchange Rule 1014(b)(ii)(A).

[6] An RSQT is an ROT that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically through AUTOM in eligible options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange. *See* Exchange Rule 1014(b)(ii)(B).

[7] This applies to all customer orders, directed and non-directed.

[8] For purposes of the fees and rebates related to adding and removing liquidity, a Directed Participant is a Specialist, SQT, or RSQT that executes a customer order that is directed to them by an Order Flow Provider and is executed electronically on PHLX XL II.

[9] *See* Exchange Rule 1080(l), "* * * The term 'Directed Specialist, RSQT, or SQT' means a specialist, RSQT, or SQT that receives a Directed Order." A Directed Participant has a higher quoting requirement as compared with a specialist, SQT or RSQT who is not acting as a Directed Participant. *See* Exchange Rule 1014.

[10] The Exchange defines a "professional" as any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) (hereinafter "Professional"). *See* Exchange Rule 1000(b)(14).

[11] The Exchange is unable to calculate the rebates for Specialists, ROTs, including SQTs and RSQTs, in an electronic auction.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4).

19(b)(3)(A)(ii) of the Act[14] and paragraph (f)(2) of Rule 19b–4[15] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2010–73 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2010–73. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–Phlx–2010–73 and should be submitted on or before June 30, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–13827 Filed 6–8–10; 8:45 am]

BILLING CODE 8010–01–P

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

[15] 17 CFR 240.19b–4(f)(2).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62213; File No. SR–NYSEArca–2010–22]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change Relating to Listing of the Teucrium Corn Fund

June 3, 2010.

I. Introduction

On March 31, 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 Corn Fund under NYSE Arca Equities Rule 8.200. The proposed rule change was published for comment in the **Federal Register** on April 29, 2010.[3] The Commission received no comments on the proposal. This order grants approval of the proposed rule change.

II. Description of the Proposal

The Exchange proposes to list and trade shares ("Shares") of the Teucrium Corn 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 Fund's net asset value ("NAV") per Share reflect the daily changes in percentage terms of a weighted average of the closing settlement prices for three futures contracts for corn ("Corn Futures Contracts") that are traded on the Chicago Board of Trade ("CBOT"): (1) The second-to-expire CBOT Corn Futures Contract, weighted 35%; (2) the third-to-expire CBOT Corn Futures Contract, weighted 30%; and (3) the CBOT Corn Futures Contract expiring in the December following the expiration month of the third-to-expire contract, weighted 35%, less the Fund's expenses. This weighted average of the three referenced Corn Futures Contracts is referred to herein as the "Benchmark," and the three Corn Futures Contracts that at any given time make up the Benchmark are referred to herein as the "Benchmark Component Futures Contracts."[6]

The Fund seeks to achieve its investment objective by investing under normal market conditions in Benchmark Component Futures Contracts or, in certain circumstances, in other Corn Futures Contracts traded on CBOT or on foreign exchanges.[7] In addition, and to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 61954 (April 21, 2010), 75 FR 22663 ("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. 3 to the Registration Statement on Form S–1 for the Trust, dated March 29, 2010 (File No. 333–162033) ("Registration Statement").

[6] Corn Futures Contracts traded on CBOT expire on a specified day in five different months: March, May, July, September, and December. In terms of the Benchmark, in June of a given year, the next-to-expire or "spot month" Corn Futures Contract will expire in July of that year, and the Benchmark Component Futures Contracts will be the contracts expiring in September of that year (the second-to-expire contract), December of that year (the third-to-expire contract), and December of the following year. In November of a given year, the Benchmark Component Futures Contracts will be the contracts expiring in March, May, and December of the following year.

[7] Corn futures volume on CBOT for 2008 and 2009 (through November 30, 2009) was 59,934,739 contracts and 47,754,866 contracts, respectively. As of March 16, 2010, CBOT open interest for corn futures was 1,118,103 contracts, and open interest for near-month futures was 447,554 contracts. The

a limited extent, the Fund also may invest in corn-based swap agreements that are cleared through CBOT or its affiliated provider of clearing services ("Cleared Corn Swaps") in furtherance of the Fund's investment objective. Once position limits in Corn Futures Contracts are applicable,[8] the Fund's intention is to invest first in Cleared Corn Swaps to the extent permitted by the position limits applicable to Cleared Corn Swaps and appropriate in light of the liquidity in the Cleared Corn Swap market, and then in contracts and instruments such as cash-settled options on Corn Futures Contracts and forward contracts, swaps other than Cleared Corn Swaps, and other over-the-counter transactions that are based on the price of corn and Corn Futures Contracts (collectively, "Other Corn Interests," and together with Corn Futures Contracts and Cleared Corn Swaps, "Corn Interests"). By utilizing certain or all of these investments, the Sponsor will endeavor to cause the Fund's performance, before taking Fund expenses and any interest income from the cash, cash equivalents, and Treasury Securities (as defined herein) held by the Fund into account, to closely track that of the Benchmark.

The Fund's positions in Corn Interests will be changed, or "rolled," on a regular basis in order to track the changing nature of the Benchmark. For example, five times a year (on the date on which a Corn Futures Contract expires), the second-to-expire Corn Futures Contract will become the next-to-expire Corn Futures Contract and will no longer be a Benchmark Component Futures Contract, and the Fund's investments will have to be changed accordingly. In order that the Fund's trading does not cause unwanted market movements and to make it more difficult for third parties to profit by trading based on such expected market movements, the Fund's investments typically will not be rolled entirely on that day, but rather will typically be rolled over a period of several days.

The Fund will invest in Corn Interests to the fullest extent possible without being leveraged or unable to satisfy its expected current or potential margin or collateral obligations with respect to its investments in Corn Interests.[9] After fulfilling such margin and collateral requirements, the Fund will invest the remainder of its proceeds from the sale of baskets in short-term obligations of the United States government ("Treasury Securities") or cash equivalents, and/or merely hold such assets in cash (generally in interest-bearing accounts). Therefore, the focus of the Sponsor in managing the Fund is investing in Corn Interests and in Treasury Securities, cash, and/or cash equivalents. The Fund will earn interest income from the Treasury Securities and/or cash equivalents that it purchases and on the cash it holds through the Fund's custodian, the Bank of New York Mellon.

The Sponsor will employ a "neutral" investment strategy intended to track the changes in the Benchmark regardless of whether the Benchmark goes up or goes down and will endeavor to place the Fund's trades in Corn Interests and otherwise manage the Fund's investments so that the Fund's average daily tracking error against the Benchmark will be less than 10 percent over any period of 30 trading days. More specifically, the Sponsor will endeavor to manage the Fund so that A will be within plus/minus 10 percent of B, where A is the average daily change in the Fund's NAV for any period of 30 successive valuation days, *i.e.,* any trading day as of which the Fund calculates its NAV, and B is the average daily change in the Benchmark over the same period.

The Sponsor believes that market arbitrage opportunities will cause the Fund's Share price on the NYSE Arca to closely track the Fund's NAV per share and that the net effect of this expected relationship and the expected relationship between the Fund's NAV and the Benchmark will be that the changes in the price of the Fund's Shares on NYSE Arca will closely track, in percentage terms, changes in the Benchmark, less the Fund's expenses.

The CFTC and U.S. designated contract markets such as CBOT may establish position limits on the maximum net long or net short futures contracts in commodity interests that any person or group of persons under common trading control (other than as a hedge) may hold, own, or control. For example, the current position limits for investments at any one time in the Corn Futures Contracts traded on CBOT are 600 spot month contracts, 13,500 contracts expiring in any other single month, and 22,000 total for all months. These position limits are fixed ceilings that the Fund would not be able to exceed without specific CFTC authorization.

In addition to position limits, the futures exchanges set daily price fluctuation limits on futures contracts. The daily price fluctuation limit establishes the maximum amount that the price of futures contracts may vary either up or down from the previous day's settlement price. Once the daily price fluctuation limit has been reached in a particular futures contract, no trades may be made at a price beyond that limit.

The Fund does not intend to limit the size of the offering and will attempt to utilize substantially all of its proceeds to purchase Corn Interests. If the Fund encounters position limits, accountability levels, or price fluctuation limits for Corn Futures Contracts on CBOT, it may then, if permitted under applicable regulatory requirements, purchase Other Corn Interests and/or Corn Futures Contracts listed on foreign exchanges. The Corn Futures Contracts available on such foreign exchanges may have different underlying sizes, deliveries, and prices. In addition, the Corn Futures Contracts available on these exchanges may be subject to their own position limits and accountability levels. In certain circumstances, however, position limits could force the Fund to limit the number of creation baskets that it sells.

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,[10] the Trust will rely on the exception contained in Rule 10A–3(c)(7).[11] 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, Corn Interests and other aspects of the corn and Corn 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

contract price was $18,337.50 ($3.6675 per bushel and 5,000 bushels per contract). The approximate value of all outstanding contracts was $20.5 billion. The position limits for all months is 22,000 contracts, and the total value of contracts if position limits were reached would be approximately $403.5 million (based on the $18,337.50 contract price). As of March 16, 2010, open interest in corn swaps cleared on CBOT was approximately 2,100 contracts, with an approximate value of $38.5 million. Corn futures and options are also traded on NYSE Liffe, and corn futures are traded on the Tokyo Grain Exchange.

[8] *See infra* note 21.

[9] The Sponsor represents that the Fund will invest in Corn Interests in a manner consistent with the Fund's investment objective and not to achieve additional leverage.

[10] 17 CFR 240.10A–3.

[11] 17 CFR 240.10A–3(c)(7).

and/or the Registration Statement, as applicable.[12]

III. Discussion and Commission's Findings

After careful consideration, the Commission finds that the proposed rule change to list and trade the Shares of the Fund is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[13] In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act,[14] 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,[15] which sets forth Congress' 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.[16] 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[17] 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 Corn Futures Contracts are readily available from CBOT, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters, and the spot price of corn also is available on a 24-hour basis from major market data vendors. 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.teucriumcornfund.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 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[18] acting as registered Market Makers[19] 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

[12] *See supra* notes 3 and 5.

[13] 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).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[16] The normal trading hours for Corn Futures Contracts on CBOT are 10:30 a.m. to 2:15 p.m. E.T. The ITV will not be updated, and, therefore, a static ITV will be disseminated, between the close of trading on CBOT of Corn 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 CBOT when the Shares are traded on NYSE Arca after normal trading hours of Corn Futures Contracts on CBOT.

[17] *See supra* note 4.

[18] *See* NYSE Arca Equities Rule 1.1(n) (defining ETP Holder).

[19] *See* NYSE Arca Equities Rule 1.1(u) (defining Market Maker).

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).[20]

This approval order is based on the Exchange's representations.[21]

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,[22] that the proposed rule change (SR–NYSEArca–2010–22) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–13826 Filed 6–8–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62215; File No. SR–CHX–2010–11]

Self-Regulatory Organizations; The Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Change Its Transaction Fees and Rebates to Exchange Participants for SRO Fees and DEA Examinations

June 3, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 1, 2010, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The CHX has filed the proposal pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] 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

The CHX proposes to amend its Schedule of Participant Fees and Assessments (the "Fee Schedule"), effective June 1, 2010, to change its transaction fees and rebates to Exchange Participants for SRO Fees and DEA Examinations. The text of this proposed rule change is available on the Exchange's Web site at *http://www.chx.com/rules/proposed_rules.htm* and in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549.

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 CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX 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 Chane

1. Purpose

Through this filing, the Exchange would amend its Fee Schedule to modify the fees charged to CHX Participants which are designed to offset, in part, the expenses associated with the Exchange's performance of its regulatory oversight function.

The Exchange proposes to increase its SRO Fee under Section B of the Fee Schedule from $250 per month to $500 per month. The Exchange also proposes to reduce the DEA Examinations Fee under Section J.4. of the Fee Schedule from $1000 per month to $800 per month. Since the SRO Fee is charged to all Exchange Participants and the DEA Examinations Fee is only charged to a subset of Participants,[5] the proposed changes should result in a net revenue increase.

As part of a planned enhancement to its ongoing regulatory program, the Exchange plans on increasing its expenditures for surveillance and oversight in the near future. The proposed fee changes would provide additional revenue to fund such increases and also distribute those costs in a more even manner across all Participants, which the Exchange believes is fair and equitable.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [6] in general, and furthers the objectives of Section 6(b)(4) of the Act [7] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members. Among other things, the change to the fee schedule would increase revenue to the Exchange to fund enhancements to its regulatory program and allocate costs more evenly across the entire population of Participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or 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 [8] and subparagraph (f)(2) of Rule 19b–4 thereunder [9] because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the self-regulatory organization.

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[20] *See supra* notes 10 and 11 and accompanying text.

[21] 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.

[22] 15 U.S.C. 78f(b)(2).

[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] The DEA Examination Fee is assessed against those Participants for which the Exchange is the Designated Examining Authority pursuant to Section 17 of the Exchange Act and Rule 17d–1 thereunder.

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(4)

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

Accordingly, the proposal is effective upon Commission receipt of the filing. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate 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 purpose 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–CHX–2010–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CHX–2010–11. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–CHX–2010–11 and should be submitted on or before June 30, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–13828 Filed 6–8–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62214; File No. SR–CHX–2010–12]

Self-Regulatory Organizations; The Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Reduce the Amount of Its Trading Permit Cancellation Fee

June 3, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 1, 2010, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The CHX has filed the proposal pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] 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

The CHX proposes to amend its Schedule of Participant Fees and Assessments (the "Fee Schedule"), effective June 1, 2010, to reduce the amount of its Trading Permit cancellation fee. The text of this proposed rule change is available on the Exchange's Web site at *http://www.chx.com/rules/proposed_rules.htm* and in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549.

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 CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX 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

Through this filing, the Exchange would amend its Fee Schedule to reduce the amount of its Trading Permit cancellation fee.

Each Exchange participant must maintain a valid CHX Trading Permit. In essence, the Trading Permit is the license permitting a Participant to transmit orders to the Exchange and otherwise avail itself of the benefits of Exchange membership. Trading Permits are issued for a term of one year. When a Participant wishes to terminate its status as such, the Exchange currently imposes a termination fee of $2,400 or, if less, $600 per month for the remainder of the one-year term. By this proposal, the Exchange seeks to reduce the maximum charge for terminating a permit from $2,400 to $1,200 since the expenses of processing termination applications do not appear to justify the larger figure. Moreover, the Exchange notes that the number of trading permits which can be issued is limited only by the number of eligible United States broker-dealers and that, therefore, it is at least possible to replace any lost permit-related revenue by the subsequent addition of another Participant firm. The Exchange also believes that some smaller firms might be more likely to apply for a Trading Permit if they did not have a larger termination fee to consider if they subsequently reversed their decision. We are also proposing to remove unnecessary language in the Fee Schedule relating to Trading Permit charges applicable to the time period prior to October 2006.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[5] in general, and

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] 15 U.S.C. 78f.

furthers the objectives of 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 its members. The Exchange believes that some smaller firms might be more likely to apply for a Trading Permit if they did not have a larger termination fee to consider if they subsequently reversed their decision.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or 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] and subparagraph (f)(2) of Rule 19b–4 thereunder[8] because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate 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 purpose 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–CHX–2010–12 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–CHX–2010–12. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–CHX–2010–12 and should be submitted on or before June 30, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–13825 Filed 6–8–10; 8:45 am]

BILLING CODE 8010–01–P

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2009–0077]

Privacy Act of 1974, as Amended; Computer Matching Program (SSA/Office of Personnel Management (OPM))—Match #1307

AGENCY: Social Security Administration (SSA)

ACTION: Notice of a renewal of an existing computer matching program that is scheduled to expire on May 28, 2010.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a renewal of an existing computer matching program that we are currently conducting with OPM.

DATES: We will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 965–0201 or writing to the Deputy Commissioner for Budget, Finance and Management, 800 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Deputy Commissioner for Budget, Finance and Management as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for persons applying for, and receiving, Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such persons.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the approval of the matching agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register;**

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying a person's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of our computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: June 3, 2010.

Stephanie Hall,

Assistant Deputy Commissioner for Budget, Finance and Management.

Notice of Computer Matching Program, SSA With the Office of Personnel Management (OPM)

A. Participating Agencies

SSA and OPM.

B. Purpose of the Matching Program

The purpose of this matching program is to set forth the terms and conditions under which OPM, the source agency, will disclose civil service benefit and payment data to us, the recipient agency. This disclosure will provide us with information necessary to verify an individual's self-certification of eligibility for prescription drug subsidy assistance under section 1860D–14 of the Social Security Act (Act) (42 U.S.C. 1395w–114). This disclosure will also enable us to implement a Medicare outreach program mandated by section 1144 of Title XI of the Act (42 U.S.C. 1320b–14). Information disclosed by OPM will enable us to identify individuals to determine their eligibility for Medicare Savings Programs (MSP) and subsidized Medicare prescription drug coverage and enable us, in turn, to identify these individuals to the States.

C. Authority for Conducting the Matching Program

The legal authority for us to conduct this computer matching is found in sections 1860D–14 and 1860D(a)(3) of the Act, 42 U.S.C. 1395w–114(a)(3) and section 1144(a)(1) of the Act, 42 U.S.C. 1320b–14(a)(1), and section 1144(b)(1) of the Act, 42 U.S.C. 1320b–14(b)(1).

D. Categories of Records and Individuals Covered by the Matching Program

On the basis of certain identifying information as provided by OPM to us, OPM will provide us with electronic files containing civil service benefit and payment data from the OPM system of records (SOR) published as OPM/Central-1 (Civil Service and Insurance Records), on October 8, 1999 (64 FR 54930), as amended on May 3, 2000 (65 FR 25775). We will match the OPM data with the SSA SOR (60–0321), the SSA's Medicare Database.

E. Inclusive Dates of the Matching Program

The matching program will become effective no sooner than 40 days after notice of the matching program is sent to Congress and OMB, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 2010–13829 Filed 6–8–10; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 7041]

U.S. Department of State Advisory Committee on Private International Law Study Group Notice of Meeting on the United Nations Commission on International Trade Law (UNCITRAL) Draft Legislative Guide on Secured Transactions and Its Treatment of Security Rights in Intellectual Property (IP)

The Department of State, Office of the Legal Adviser, Private International Law and the U.S. Patent and Trademark Office would like to give you notice of a second round table public meeting to discuss the supplement to the UNCITRAL Legislative Guide on Secured Transactions ("the Guide") dealing with security rights in intellectual property, as well as possible future work in UNCITRAL on an IP licensing guide. The meeting will take place on Thursday, June 17, 2010 from 2:30 p.m. to 4 p.m. EST at the Department of State, Office of Private International Law, 2430 E Street, NW., Washington, DC. This is not a meeting of the full Advisory Committee, but a meeting of one of its Study Groups.

Please follow the link below for the report of the final session of the Working Group February 8–12, 2010 in New York (A/CN.9/689), as well as the draft text of the IP supplement to the Guide (A/CN.9/700 and Add. 1–7) that will be considered for final adoption by UNCITRAL at its annual session in June in New York. *http://www.uncitral.org/uncitral/en/commission/sessions/43rd.html.* The Secretariat report of the UNCITRAL colloquium on future work (A/CN.9/702 and Add.1 (including possible future work on IP licensing at 10–13)) is available at *http://www.uncitral.org/uncitral/en/commission/sessions/43rd.html.*

With regard to possible future work on an IP licensing guide, the round table discussion will review whether existing private international law instruments already provide general contract rules which might be applied for IP licensing contracts, such as the UNIDROIT Principles. Matters addressed by the UNIDROIT Principles include: general provisions (freedom of contract, binding nature of contracts, good faith and fair dealing, relevance of usages and practices, *etc.*), contract formation rules (including rules addressing the authority of agents), rules concerning the validity of contracts, rules concerning the interpretation of contracts, express and implied obligations, third-party rights, performance and excused performance, remedies, assignment and delegation, and limitation periods. The full UNIDROIT Principles may be downloaded at *http://www.unidroit.org/english/principles/contracts/principles2004/integralversionprinciples2004-e.pdf.*

Time and Place: The meeting will take place on Thursday, June 17, 2010 from 2:30 p.m. to 4 p.m. EST at the Department of State, Office of Private International Law, 2430 E Street, NW., Washington, DC.

Public Participation: This Study Group round table meeting is open to the public, subject to the capacity of the meeting room. Access to the meeting building is controlled; persons wishing to attend should contact Tricia Smeltzer or Niesha Toms of the Department of State Legal Adviser's Office at *SmeltzerTK@state.gov* or *TomsNN@state.gov* and provide your name, e-mail address, and mailing address to get admission into the meeting or to get directions to the office. Persons who cannot attend but who wish to comment are welcome to do so by e-mail to Michael Dennis at *DennisMJ@state.gov* or Justin Hughes at *justin.hughes@uspto.gov.* A member of the public needing reasonable accommodation should advise those same contacts not later than June 15th. Requests made after that date will be considered, but might not be able to be fulfilled. If you are unable to attend the public meeting and you would like to participate by teleconferencing, please contact Tricia Smeltzer or Niesha Toms at 202–776–8420 to receive the

conference call-in number and the relevant information.

Dated: June 3, 2010.

Michael J. Dennis,

Attorney-Adviser, Office of Private International Law, Office of the Legal Advisor, Department of State.

[FR Doc. 2010–13864 Filed 6–8–10; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending May 29, 2010

The following Agreements were filed with the Department of Transportation under the sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1382 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

Docket Number: DOT–OST–2010–0141.

Date Filed: May 25, 2010.

Parties: Members of the International Air Transport Association.

Subject: Mail Vote 634—Resolution 010x, TC3 Special Passenger Amending Resolution From Brunei Darussalam to South East Asia (Memo 1386), Intended effective date: 1 June 2010.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2010–13849 Filed 6–8–10; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans), pursuant to 23 U.S.C. 327.

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, the High-Occupancy Toll Lanes project on Interstate 110 (PM 9.7/20.70), and associated work on Interstate 105 (PM R4.9/R9.6), in the city and county of Los Angeles, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before December 8, 2010. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Ron Kosinski, Deputy District Director, Division of Environmental Planning, Caltrans District 7, 100 S Main St, MS 16A, Los Angeles, CA 90012, (213) 897–0703, *ron_kosinski@dot.ca.gov.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned, and the California Department of Transportation (Caltrans) assumed environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that the Caltrans has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: Conversion of High-Occupancy Vehicle Lanes on I–110 Harbor Freeway/Transitway to High-Occupancy Toll (HOT) Lanes, from 182nd Street to Adams Boulevard. Work involves addition of signage and tolling infrastructure, modification of lanes, and associated work at Adams Boulevard intersection/HOV bypass, and on direct HOV connectors on I–105. Purpose of project is to maximize the efficiency of the corridor and lessen congestion by optimizing usage of the HOT lanes. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Finding of No Significant Impact (FONSI) issued on May 14, 2010 and in other documents in the FHWA project records. The FONSI and other project records are available by contacting Caltrans at the addresses provided above. The Caltrans Environmental Assessment and FONSI can be viewed and downloaded from the project web site at *http://www.dot.ca.gov/dist07/resources/envdocs.*

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].
2. Clean Air Act [42 U.S.C. 7401–7671(q)].
3. Migratory Bird Treaty Act [16 U.S.C. 703–712].
4. Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(aa)-11].
5. Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)].
6. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 (SARA).
7. Executive Orders: E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1)

Issued on: June 3, 2010.

Cindy Vigue,

Director, State Programs, Federal Highway Administration, Sacramento, California.

[FR Doc. 2010–13879 Filed 6–8–10; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Statute of Limitations on Claims; Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans), pursuant to 23 USC 327.

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans that are final within the meaning of 23 U.S.C. 139(*l*)(1). The actions relate to a proposed highway project, the Interstate 10 High Occupancy Toll Lanes project between Interstate 605 and Alameda Street in the County of Los Angeles, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking

judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before December 6, 2010. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Ron Kosinski, Deputy District Director, Division of Environmental Planning, Caltrans District 7, 100 S. Main St., MS 16A, Los Angeles, CA 90012, (213) 897–0703, *ron_kosinski@dot.ca.gov.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned, and the California Department of Transportation (Caltrans) assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that the Caltrans has taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: Conversion of existing High Occupancy Vehicle Lane into a High Occupancy Toll (HOT) Lane on I–10 San Bernardino Freeway/El Monte Busway. Work involves installation of signage and toll infrastructure, restriping of the existing lanes to accommodate an additional HOT lane and minor right-of-way on Ramona Road from the City of Alhambra. The purpose of the proposed project is to more efficiently utilize the existing freeway and relieve congestion in order to improve traffic flow on the regional transportation system. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) approved on May 14, 2010 and in other documents in the FHWA project records. The EA, FONSI and other project records are available by contacting Caltrans at the addresses provided above. The Caltrans EA and FONSI can be viewed and downloaded from the project Web site at *http://www.dot.ca.gov/dist07/resources/envdocs.*

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].
2. Clean Air Act [42 U.S.C. 7401–7671(q)].
3. Migratory Bird Treaty Act [16 USC 703–712].
4. Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(aa)–11].
5. Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)].
6. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 (SARA).
7. Executive Orders: E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1).

Issued on: June 3, 2010.

Cindy Vigue,

Director, State Programs, Federal Highway Administration, Sacramento, California.

[FR Doc. 2010–13878 Filed 6–8–10; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket ID PHMSA–2010–0133]

Pipeline Safety: Workshop on Public Awareness Programs

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of workshop.

SUMMARY: PHMSA is co-sponsoring a one day public awareness workshop with the National Association of Pipeline Safety Representatives (NAPSR). The workshop will be an opportunity, following the initial four-year implementation cycle, to review the implementation process, identify what implementation strategies have worked well, discuss challenges faced by the pipeline industry, discuss Federal and state regulatory oversight, learn about public interest and need for information about pipelines in their communities, and identify critical elements of a successful operator public awareness program. Pipeline trade associations, the Pipeline Safety Trust, the National Transportation Safety Board, and pipeline operators will share lessons learned from implementing their public awareness programs based on Federal regulations. PHMSA and state partners will discuss the scope of and timeline for conducting effectiveness evaluations. PHMSA and our state partners will use the results from this event, in addition to existing inspection activities, to further develop our programs for evaluating pipeline operator public awareness programs. The workshop will be webcast live, in real time and presentations will be made available following the workshop.

DATES: The workshop will be held on June 30, 2010. Name badge pick up and on-site registration will be available starting at 7 a.m., with the workshop taking place from 8 a.m. until approximately 5 p.m. central time. Refer to the meeting Web site for updated agenda and times and live webcast at: *http://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=65&nocache=9351.* Please note that all workshop presentations will be available on the Stakeholder Communication website within 30 days following the workshop at: *http://primis.phmsa.dot.gov/comm/PublicEducation.htm?nocache=3200.*

ADDRESSES: The workshop will be held at the Intercontinental Hotel, 2222 W. Loop-South, Houston, Texas 77027. Hotel reservations must be made by contacting the hotel directly. Hotel reservations can be made under the "U.S. Department of Transportation, Public Awareness Workshop" room block for the nights of June 29 and 30, 2010, at 1–800–316–8645, or Online at: *http://www.ichotelsgroup.com/intercontinental/en/gb/reservations/dates-preferences/houston.* A daily room rate of $118.00 is available until June 18, 2010. The meeting room will be posted at the hotel on the day of the workshop.

FOR FURTHER INFORMATION CONTACT: Christie Murray at 202–366–4996 or by e-mail at *christie.murray@dot.gov.*

SUPPLEMENTARY INFORMATION:

Registration: Members of the public may attend this free workshop. To help assure that adequate arrangements are made, all attendees and webcast viewers are encouraged to register for the workshop at: *http://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=65&nocache=9351.*

Comments: Members of the public may also submit written comments, either before or after the workshop. Comments should reference Docket ID PHMSA–2010–0133. Comments may be submitted in the following ways:

- *E-Gov Web Site: http://www.regulations.gov.* This site allows

the public to enter comments on any **Federal Register** notice issued by any agency. Follow the instructions for submitting comments.

- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590.

Hand Delivery: DOT Docket Management System, Room W12–140, on the ground floor 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.

Instructions: Identify the Docket ID at the beginning of your comments. If you submit your comments by mail, submit two copies. If you wish to receive confirmation that PHMSA has received your comments, include a self-addressed stamped postcard. Internet users may submit comments at *http://www.regulations.gov.* **Note:** Comments will be posted without changes or edits to *http://www.regulations.gov* including any personal information provided. Please see the Privacy Act heading below for additional information.

Privacy Act Statement: Anyone may search the electronic form of all comments received for any of our dockets. The Privacy Notice for comment submissions may be reviewed at *http://www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000 (65 FR 19477) or you may visit *http://DocketsInfo.dot.gov.*

Information on Services for Individuals with Disabilities: PHMSA is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, please contact Christie Murray at (202) 366–4996, or via e-mail at *christie.murray@dot.gov* by close of business June 18, 2010.

Preliminary Workshop Agenda:

(1) Opening Remarks by PHMSA.

(2) Chronology of Public Awareness (PHMSA)—(timeline of public awareness and clearinghouse).

(3) PHMSA observations (Discuss inspection findings, inspection/enforcement guidance material and path forward on conducting effectiveness inspections).

(4) National Association of Pipeline Safety Representatives (NAPSR) Perspectives.

(5) Public Perspective, Pipeline Safety Trust.

(6) National Transportation Safety Board Recommendations.

(7) Pipeline Trade Association Observations (High level discussion about member company challenges with implementing and evaluating effectiveness).

- American Gas Association
- American Public Gas Association
- Association of Oil Pipelines
- American Petroleum Institute
- Interstate Natural Gas Association of America

(8) Question & Answer Period.

(9) Lessons Learned Panel Discussion, Pipeline Operators (Identify what implementation strategies have worked well, discuss challenges faced by the pipeline industry).

- Hazardous Liquid
- Gas Transmission/Gathering
- Natural Gas Distribution

(10) Group Discussion (To address Web cast online questions and facilitate an open discussion).

(11) Wrap up/closing (PHMSA/NAPSR).

(12) Refer to the registration Web site for a more detailed agenda and Webcast information: *http://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=65&nocache=9351.*

Issued in Washington, DC, on June 2, 2010.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 2010–13791 Filed 6–8–10; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2010–29]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before July 1, 2010.

ADDRESSES: You may send comments identified by Docket Number FAA–2010–0468 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Peter L. Rouse, Aerospace Engineer, Standards Office (ACE–111), Small Airplane Directorate, Aircraft Certification Service, FAA; telephone number (816) 329–4135, fax number (816) 329–4090, e-mail at *peter.rouse@faa.gov.*

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 4, 2010.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petition for Exemption

[Docket No. FAA–2010–0468]

Petitioner: Air Tractor, Inc.

Section of 14 CFR Affected: 14 CFR 23.1001.

Description of Relief Sought: To allow Air Tractor Inc. to modify ten model AT–802s with fuselage fuel tanks without meeting the fuel jettison maximum weight demonstration, fuel discharges clear of any part of the aircraft, and fuel or fumes do not enter any parts of the airplane requirements

in § 23.1001(b), (c)(2), and (c)(3). Air Tractor, Inc. proposes conducting the maximum weight demonstration at 13,000 pounds or more versus the model AT 802 certificated weight of 16,000 pounds because the agricultural hopper removal will reduce the weight of the modified model AT–802. Air Tractor, Inc. also proposes using red dye water instead of fuel for the jettison test to conserve resources.

[FR Doc. 2010–13816 Filed 6–8–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2010–0065]

Reports, Forms, and Recordkeeping Requirements

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

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before August 9, 2010.

ADDRESSES: Direct all written comments to the U.S. Department of Transportation Dockets, 1200 New Jersey Ave., SE., W46–474, Washington, DC 20590. Docket No. NHTSA–2010–0065.

FOR FURTHER INFORMATION CONTACT: Angela Eichelberger, Ph.D., Office of Behavioral Safety Research (NTI–132), 1200 New Jersey Avenue, SE., Washington, DC 20590. Dr. Eichelberger's telephone number is (202) 366–5586 and her e-mail is *angela.eichelberger@dot.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document.

Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

Title: National Child Restraint Use Special Study (NCRUSS).

Type of Request: Reinstatement with change of a previously approved collection.

OMB Control Number: 2127–0577.

Form Number: This collection of information uses no standard forms.

Requested Expiration Date of Approval: 3 years from the date of OMB approval (estimated March 30, 2014).

Summary of the Collection of Information: The National Highway Traffic Safety Administration (NHTSA) proposes to collect observational data on correct and incorrect use of child restraint systems in passenger vehicles, as well as interview information from drivers about their knowledge and perceptions of child restraint systems. The primary population for observation will be restrained and unrestrained child passengers riding in any seating position in passenger vehicles. Participation in the study will be voluntary. Interviews with drivers who agree to participate will be used to obtain the following data: demographic information on occupants, the driver's knowledge about the specific CRS in the vehicle, and the driver's general knowledge and experience with different types of restraint systems. While the interview is being conducted, a trained observer will collect information about the CRS in the vehicle, including the type of restraint that is used, the type of installation (seat belt or LATCH), how the CRS is installed, harness use, and seat belt fit. The observer will not remove the child or CRS from the vehicle. At the conclusion of the survey, respondents will receive information on child passenger safety and specific information regarding the locations of inspection stations and seat check events that are available in the area.

Description of the Need for the Information and Proposed Use of the Information: The National Highway Traffic Safety Administration (NHTSA) was established by the Highway Safety Act of 1966 (23 U.S.C. 101) to carry out a Congressional mandate to reduce the mounting number of deaths, injuries and economic losses resulting from motor vehicle crashes on our Nation's highways. In support of this mission, NHTSA proposes to conduct information collections to assess the levels of child restraint system use and misuse for children riding in passenger vehicles, and to examine whether the levels of use and/or misuse are related to any specific characteristics of the drivers, their passengers and/or their vehicles. Previous studies have shown that there is a gap between recommended child restraint use and observed use. Actions have been taken by NHTSA to close the gap. In March 1999, NHTSA published a final rule establishing a uniform child restraint attachment system known as LATCH, Lower Anchors and Tethers for Children (Federal Motor Vehicles Safety Standard 213, Child Restraint Systems and FMVSS 225, Child Restraint Anchorage Systems), in order to provide another, easier method of attaching a child restraint to the vehicle. This new collection of data is necessary in order to evaluate the effectiveness of FMVSS 225 and FMVSS 213, as well as to obtain an up to date snapshot of child restraint use and misuse across the United States. This information will be used in assessing what additional actions NHTSA should take to improve child passenger safety. In addition, NTHSA will publish the findings of this research study to provide information to States, localities, and other interested organizations in support of their efforts to reduce and prevent injuries among child occupants.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information): NHTSA anticipates conducting approximately 5,000 observations of children in passenger vehicles and interviews with

the drivers of these vehicles. Data collection is expected to take place over a 3–5 month period in the spring and summer of 2011. To minimize the survey start-up cost and to provide a trained cadre of data collectors, field data collection will be conducted through the infrastructure of the National Automotive Sampling System (NASS) Crashworthiness Data System (CDS). The NASS CDS consists of 24 Primary Sampling Units (PSUs) that are a probability sample selected from a sample frame of 1,195 PSUs across the United States. The NASS PSUs are used to obtain a nationally representative probability sample of police reported crashes in the U.S. Within each PSU, drivers will be approached at specific types of locations where children are likely to be riding in a passenger vehicle. Data collection sites may include gas stations, fast food restaurants, shopping centers, hospitals/clinics, and/or day care centers.

Estimate of the Total Annual Reporting and Record Keeping Burden Resulting from the Collection of Information: Each of the 5,000 interview/observation sessions will last 15 minutes including the initial screening. Therefore, the estimated annual burden is 1,250 hours. The respondents would not incur any reporting cost from the information collection. The respondents also would not incur any record keeping burden or record keeping cost from the information collection. Additionally, respondents would receive information on child passenger safety and a list of inspection stations where they may choose to have their child restraint system inspected. Consequently, the respondent is potentially receiving benefit in return for his/her participation.

Authority: 44 U.S.C. Section 3506(c)(2)(A).

Jeff Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2010–13857 Filed 6–8–10; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35357]

Norfolk Southern Railway Company—Trackage Rights Exemption—The West Tennessee Railroad, LLC

Pursuant to a written trackage rights agreement, The West Tennessee Railroad, LLC (WTNN) has agreed to grant overhead trackage rights to Norfolk Southern Railway Company (NSR)[1] over approximately 118.9 miles of rail line controlled by WTNN, between milepost IC–406.1 near Fulton, Ky., and milepost IC–525.0 near Ruslor Junction (Corinth), Miss.[2]

The transaction may be consummated on or after June 23, 2010, the effective date of the exemption (30 days after the exemption was filed).

The purpose of the transaction is to enable NSR to efficiently route traffic between Fulton and Corinth for further transportation beyond those endpoints.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Railway—Trackage Rights—Burlington Northern, Inc.,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease and Operate—California Western Railroad,* 360 I.C.C. 653 (1980), and any employees affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line Railroad and The Union Pacific Railroad—Abandonment Portion Goshen Branch Between Firth and Ammon, in Bingham and Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed by June 16, 2010 (at least 7 days before the exemption becomes effective). An original and 10 copies of all pleadings, referring to Docket No. FD 35357, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Daniel G. Kruger, Three Commercial Place, Norfolk, Va., 23510.

Board decisions and notices are available on our Web site at "*WWW.STB.DOT.GOV*."

Decided: June 4, 2010.

[1] WTNN is a New Jersey limited liability company and NSR is a wholly owned subsidiary of holding company Norfolk Southern Corporation.

[2] A redacted, executed trackage rights agreement between WTNN and NSR was filed with the notice of exemption. The unredacted version was concurrently filed under seal along with a motion for protective order, which will be addressed in a separate decision.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2010–13835 Filed 6–8–10; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 2, 2010.

The Department of Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before July 9, 2010 to be assured of consideration.

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506–0045.

Type of Review: Extension without change of a currently approved collection.

Title: Imposition of Special Measure against Banco Delta Asis.

Description: FinCEN is issuing this rulemaking to impose a special measure against Banco Delta Asia as a financial institution of primary money laundering concern, pursuant to the authority contained in 31 U.S.C. 5318A.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Reporting Burden: 5,000 hours.

Bureau Clearance Officer: Russell Stephenson (202) 354–6012, Department of the Treasury, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183; (202) 354–6012.

OMB Reviewer: Shagufta Ahmed, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; (202) 395–7873.

Celina Elphage,

Treasury PRA Clearance Officer.

[FR Doc. 2010–13850 Filed 6–8–10; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Securities Offering Disclosures

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection request (ICR) described below has been submitted to the Office of Management and Budget (OMB) for review and approval, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before July 9, 2010. A copy of this ICR, with applicable supporting documentation, can be obtained from RegInfo.gov at *http://www.reginfo.gov/public/do/PRAMain*.

FOR FURTHER INFORMATION CONTACT: For further information or to obtain a copy of the submission to OMB, please contact Ira L. Mills at, *ira.mills@ots.treas.gov* (202) 906–6531, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Securities Offering Disclosures.

OMB Number: 1550–0035.

Form Number: SEC Forms S–1, S–3, S–4, S–8, 144, and OTS Form G–12.

Regulation requirement: 12 CFR 563g.

Description: The Securities Offering regulation provides necessary information, including financial disclosure, to persons to make an informed investment decision regarding a possible purchase or sale of a savings association's securities. Further, OTS's regulation sets standards for disclosure to reduce the risk of a fraudulent securities offering that could adversely affect the public or the safety and soundness of a savings association.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 13.

Estimated Burden Hours per Response: 20 to 208 hours for the SEC Forms and 1 hour for the OTS Form G–12.

Estimated Frequency of Response: On occasion.

Estimated Total Burden: 860 hours.

Clearance Officer: Ira L. Mills, (202) 906–6531, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Dated: June 4, 2010.

Ira L. Mills,

Paperwork Clearance Officer, Office of Chief Counsel, Office of Thrift Supervision.

[FR Doc. 2010–13885 Filed 6–8–10; 8:45 am]

BILLING CODE 6720–01–P

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Federal Register

Vol. 75, No. 110

Wednesday, June 9, 2010

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''PLUS'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

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To provide for the sale of the Federal Government's reversionary interest in approximately 60 acres of land in Salt Lake City, Utah, originally conveyed to the Mount Olivet Cemetery Association under the Act of January 23, 1909. (May 24, 2010; 124 Stat. 1190)

H.R. 2802/P.L. 111–169
To provide for an extension of the legislative authority of the Adams Memorial Foundation to establish a commemorative work in honor of former President John Adams and his legacy, and for other purposes. (May 24, 2010; 124 Stat. 1192)

H.R. 5148/P.L. 111–170
To amend title 39, United States Code, to clarify the instances in which the term ''census'' may appear on mailable matter. (May 24, 2010; 124 Stat. 1193)

H.R. 5160/P.L. 111–171
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Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009 (May 24, 2010; 124 Stat. 1209)

H.R. 5014/P.L. 111–173
To clarify the health care provided by the Secretary of Veterans Affairs that constitutes minimum essential coverage. (May 27, 2010; 124 Stat. 1215)

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