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Presidential Documents

Title 3—

The President

Executive Order 13540 of April 26, 2010

Interagency Task Force on Veterans Small Business Development

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 102 of title I of the Military Reservist and Veteran Small Business Reauthorization and Opportunity Act of 2008 (Public Law 110–186) (the "Act"), and in order to establish an interagency task force to coordinate the efforts of Federal agencies to improve capital, business development opportunities, and pre-established Federal contracting goals for small business concerns owned and controlled by veterans and service-disabled veterans, it is hereby ordered as follows:

Section 1. *Establishment.* The Administrator of the Small Business Administration (Administrator) shall establish within the Small Business Administration an Interagency Task Force on Veterans Small Business Development (Task Force).

Sec. 2. *Membership.* The Administrator shall serve as Chair of the Task Force and shall direct its work. Other members shall consist of:

(a) a senior level representative, designated by the head of the respective department or agency, from each of the following:

(i) the Department of the Treasury;

(ii) the Department of Defense;

(iii) the Department of Labor;

(iv) the Department of Veterans Affairs;

(v) the Office of Management and Budget;

(vi) the Small Business Administration (in addition to the Administrator); and

(vii) the General Services Administration; and

(b) four representatives from a veterans' service or military organization or association, who shall be appointed by the Administrator.

Sec. 3. *Functions.* Consistent with the Act and other applicable law, the Task Force shall:

(a) consult regularly with veterans service and military organizations in performing the duties of the Task Force;

(b) coordinate administrative and regulatory activities and develop proposals relating to:

(i) improving capital access and capacity of small business concerns owned and controlled by veterans and service-disabled veterans through loans, surety bonding, and franchising;

(ii) ensuring achievement of the pre-established Federal contracting goals for small business concerns owned and controlled by veterans and service-disabled veterans through expanded mentor-protégé assistance and matching such small business concerns with contracting opportunities;

(iii) increasing the integrity of certifications of status as a small business concern owned and controlled by a veteran or service-disabled veteran;

(iv) reducing paperwork and administrative burdens on veterans in accessing business development and entrepreneurship opportunities;

(v) increasing and improving training and counseling services provided to small business concerns owned and controlled by veterans; and

(vi) making other improvements relating to the support for veterans business development by the Federal Government; and

(c) not later than 1 year after its first meeting and annually thereafter, forward to the President a report on the performance of its functions, including any proposals developed pursuant to subsection (b) of this section.

Sec. 4. *General Provisions*. (a) The Small Business Administration shall provide funding and administrative support for the Task Force to the extent permitted by law and within existing appropriations.

(b) Nothing in this order shall be construed to impair or otherwise effect:

(i) authority granted by law to an executive department, agency, or the head thereof; and

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (FACA), may apply to the Task Force, any functions of the President under the FACA, except for those in section 6 of the FACA, shall be performed by the Administrator in accordance with guidelines issued by the Administrator of General Services.

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

THE WHITE HOUSE,
April 26, 2010.

[FR Doc. 2010–10172
Filed 4–28–10; 8:45 am]
Billing code 3195–W0–P

Presidential Documents

Memorandum of April 26, 2010

Establishing an Interagency Task Force on Federal Contracting Opportunities for Small Businesses

Memorandum for the Heads of Executive Departments and Agencies

The Federal Government is the world's largest purchaser of goods and services, with purchases totaling over $500 billion per year. The American Recovery and Reinvestment Act of 2009 (Recovery Act) and other national investments are providing new opportunities for small businesses to compete for Federal contracts, and it is critical that these investments tap into the talents and skills of a broad cross-section of American business and industry. Small businesses must be able to participate in the Nation's economic recovery, including businesses owned by women, minorities, socially and economically disadvantaged individuals, and service-disabled veterans of our Armed Forces. These businesses should be able to compete and participate effectively in Federal contracts.

The Congress has established a number of statutory goals designed to help small businesses compete for Federal contracts. In addition to the goal of awarding at least 23 percent of all Federal prime contracting dollars to small businesses, the Congress also established Government-wide contracting goals for participation by small businesses that are located in Historically Underutilized Business Zones (at least 3 percent) or that are owned by women (at least 5 percent), socially and economically disadvantaged individuals (at least 5 percent), and service-disabled veterans (at least 3 percent). These aspirational goals help ensure that all Americans share in the jobs and opportunities created by Federal procurement.

In recent years, the Federal Government has not consistently reached its small business contracting goals. Although we have made some progress—particularly with respect to Recovery Act contracts—more work can and should be done. I am committed to ensuring that small businesses, including firms owned by women, minorities, socially and economically disadvantaged individuals, and service-disabled veterans, have fair access to Federal Government contracting. Indeed, where small businesses have the capacity to do more, we should strive to exceed the statutory goals. While Chief Acquisition Officers and Senior Procurement Executives have many priorities, small business contracting should always be a high priority in the procurement process.

Obtaining tangible results will require an honest and accurate accounting of our progress so that we can have transparency and accountability through Federal small business procurement data. Additionally, we must expand outreach strategies to alert small firms to Federal contracting opportunities.

In order to coordinate executive departments' and agencies' efforts towards ensuring that all small businesses have a fair chance to participate in Federal contracting opportunities, it is hereby ordered as follows:

Section 1. *Establishment.* There is established an Interagency Task Force on Federal Contracting Opportunities for Small Businesses (Task Force). The Secretary of Commerce (Secretary), the Director of the Office of Management and Budget (Director), and the Administrator of the Small Business Administration (Administrator) shall serve as Co-Chairs of the Task Force and shall direct its work.

Sec. 2. *Membership*. In addition to the Secretary, the Director, and the Administrator, the Task Force shall consist of the following members:

(i) the Secretary of the Treasury;

(ii) the Secretary of Defense;

(iii) the Attorney General;

(iv) the Secretary of Labor;

(v) the Secretary of Housing and Urban Development;

(vi) the Secretary of Transportation;

(vii) the Secretary of Veterans Affairs;

(viii) the Secretary of Homeland Security;

(ix) the Administrator of General Services;

(x) the Administrator of the National Aeronautics and Space Administration;

(xi) the Director of the Minority Business Development Agency;

(xii) the Director of the Office of Science and Technology Policy;

(xiii) the Director of the Domestic Policy Council;

(xiv) the Director of the National Economic Council;

(xv) the Chair of the Council of Economic Advisers; and

(xvi) the heads of such other executive departments, agencies, and offices as the President may, from time to time, designate.

A member of the Task Force may designate, to perform the Task Force functions of the member, one or more senior officials who are part of the member's department, agency, or office, and who are full-time officers or employees of the Federal Government.

Sec. 3. *Functions*. The Task Force shall provide to the President, not later than 120 days after the date of this memorandum, proposals and recommendations for:

(i) using innovative strategies, such as teaming, to increase opportunities for small business contractors and utilizing and expanding mentorship programs, such as the mentor-protégé program;

(ii) removing barriers to participation by small businesses in the Federal marketplace by unbundling large projects, improving training of Federal acquisition officials with respect to strategies for increasing small business contracting opportunities, and utilizing new technologies to enhance the effectiveness and efficiency of Federal program managers, acquisition officials, and the Directors of Offices of Small Business Programs and Offices of Small and Disadvantaged Business Utilization, their managers, and procurement center representatives in identifying and providing access to these opportunities;

(iii) expanding outreach strategies to match small businesses, including firms located in Historically Underutilized Business Zones and firms owned and controlled by women, minorities, socially and economically disadvantaged individuals, and service-disabled veterans of our Armed Forces, with contracting and subcontracting opportunities; and

(iv) establishing policies, including revision or clarification of existing legislation, regulations, or policies, that are necessary or appropriate to effectuate the objectives of this memorandum.

Sec. 4. *Using Technology to Improve Transparency and Accountability*. Within 90 days of the date of this memorandum, the Assistant to the President and Chief Technology Officer and the Federal Chief Information Officer, in coordination with the Task Force, shall develop a website that illustrates the participation of small businesses, including those owned by women, minorities, socially and economically disadvantaged individuals, and service-

disabled veterans of our Armed Forces, in Federal contracting. To foster greater accountability and transparency in, and allow oversight of, the Federal Government's progress, this website shall be designed to encourage improved collection, verification, and availability of Federal procurement data and provide accurate data on the Federal Government's progress in ensuring that all small businesses have a fair chance to participate in Federal contracting opportunities.

Sec. 5. *Outreach*. In developing its recommendations, the Task Force shall conduct outreach with representatives of small businesses and small business associations.

Sec. 6. *General Provisions*. (a) This memorandum shall be implemented consistent with applicable law and subject to the availability of any necessary appropriations.

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

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

(d) The Director is hereby authorized and directed to publish this memorandum in the *Federal Register*.

The White House,
Washington, April 26, 2010

[FR Doc. 2010–10174
Filed 4–28–10; 8:45 am]
Billing code 3110–01–P

Rules and Regulations

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0431; Directorate Identifier 2010–NM–072–AD; Amendment 39–16272; AD 2010–09–07]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Model DHC–8–400 Series Airplanes

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

ACTION: Final rule; request for comments.

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

* * * 1. A potential freezing of the AOA [angle of attack] Vane Resolver * * * may restrict the dynamic behavior (lag) of the vane and could lead to a potential seize-up condition at lower temperatures. This condition, if not corrected, may provide inaccurate AOA data to the Stall Protection System (SPS).

2. As a result of ageing, the AOA vane heating element could degrade to a point where there is insufficient heat to prevent ice build-up on the AOA vanes. The ice build-up may lead to a change in the aerodynamic properties of the AOA vane and, under certain conditions, send inaccurate information to the SPS. This ageing condition cannot be detected by the aircraft AOA vane heater current monitor.

These conditions, if not corrected, could result in inaccurate AOA data provided to the SPS and could lead to a change in the aerodynamic properties of the AOA vane and reduced ability of the flight crew to maintain safe flight and landing of the airplane. This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective May 14, 2010.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of May 14, 2010.

We must receive comments on this AD by June 14, 2010.

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Joseph Licata, Aerospace Engineer, Avionics and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7361; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2010–05, dated February 2, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

Although there have been no in-service reported incidents related to AOA [angle of attack] failures on the DHC–8 Series 400 aeroplanes, two separate issues have been identified that would affect proper operation of the AOA vane, P/N [part number] C16177AC. These issues are:

1. A potential freezing of the AOA Vane Resolver, which may restrict the dynamic behavior (lag) of the vane and could lead to a potential seize-up condition at lower temperatures. This condition, if not corrected, may provide inaccurate AOA data to the Stall Protection System (SPS).

2. As a result of ageing, the AOA vane heating element could degrade to a point where there is insufficient heat to prevent ice build-up on the AOA vanes. The ice build-up may lead to a change in the aerodynamic properties of the AOA vane and, under certain conditions, send inaccurate information to the SPS. This ageing condition cannot be detected by the aircraft AOA vane heater current monitor.

This directive mandates replacement of the vanes equipped with suspect resolvers and a periodic inspection of the in-rush current to verify the AOA vane heating capability.

These conditions, if not corrected, could result in inaccurate AOA data provided to the SPS and could lead to a change in the aerodynamic properties of the AOA vane and reduced ability of the flight crew to maintain safe flight and landing of the airplane. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Bombardier has issued Alert Service Bulletin A84–27–46, dated October 20, 2009; and Alert Service Bulletin A84–27–51, dated December 22, 2009. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

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

condition exists and is likely to exist or develop on other products of the same type design.

Differences Between the AD and the MCAI or Service Information

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

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

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because potential freezing of the vane resolver of the angle of attack could restrict the dynamic behavior (lag) of the vane and could lead to a potential seize-up condition at lower temperatures. As a result of aging, the vane heating element of the AOA could degrade to a point where there is insufficient heat to prevent ice buildup on the AOA vanes. These conditions, if not corrected, could result in inaccurate AOA data provided to the SPS and could lead to a change in the aerodynamic properties of the AOA vane and reduced ability of the flight crew to maintain safe flight and landing of the airplane. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0431; Directorate Identifier 2010–NM–072–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–09–07 Bombardier, Inc.: Amendment 39–16272. Docket No. FAA–2010–0431; Directorate Identifier 2010–NM–072–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective May 14, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier, Inc. Model DHC–8–400, –401, and –402 airplanes; certificated in any category, that are equipped with Thales angle of attack (AOA) vanes having part number (P/N) C16177AC.

Subject

(d) Air Transport Association (ATA) of America Code 27: Flight Controls.

Reason

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

Although there have been no in-service reported incidents related to AOA failures on the DHC–8 Series 400 aeroplanes, two separate issues have been identified that would affect proper operation of the AOA vane, P/N C16177AC. These issues are:

1. A potential freezing of the AOA Vane Resolver, which may restrict the dynamic behavior (lag) of the vane and could lead to a potential seize-up condition at lower temperatures. This condition, if not corrected, may provide inaccurate AOA data to the Stall Protection System (SPS).

2. As a result of ageing, the AOA vane heating element could degrade to a point where there is insufficient heat to prevent ice build-up on the AOA vanes. The ice build-up may lead to a change in the aerodynamic properties of the AOA vane and, under certain conditions, send inaccurate information to the SPS. This ageing condition cannot be detected by the aircraft AOA vane heater current monitor. This directive mandates replacement of the vanes equipped with suspect resolvers and a periodic inspection of the in-rush current to verify the AOA vane heating capability.

These conditions, if not corrected, could result in inaccurate AOA data provided to the SPS and could lead to a change in the aerodynamic properties of the AOA vane and

reduced ability of the flight crew to maintain safe flight and landing of the airplane.

Compliance

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

Actions

(g) Within 250 flight hours after the effective date of this AD: Do an inspection to determine the serial number of the AOA sensors installed on the airplane, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A84–27–51, dated December 22, 2009. A review of airplane maintenance records is acceptable in lieu of this inspection if the serial number of the AOA sensors can be conclusively determined from that review.

(1) If neither serial number is specified in paragraph 1.A., Table 1, of Bombardier Alert Service Bulletin A84–27–51, dated December 22, 2009, do the actions required by paragraph (h) of this AD.

(2) If the serial numbers of both AOA sensors are specified in paragraph 1.A., Table 1, of Bombardier Alert Service Bulletin A84–27–51, dated December 22, 2009, and both serial numbers have suffix "B," do the actions required by paragraph (h) of this AD.

(3) If the serial numbers of both AOA sensors are specified in paragraph 1.A., Table 1, of Bombardier Alert Service Bulletin A84–27–51, dated December 22, 2009, do the actions required by either paragraph (g)(3)(i) or (g)(3)(ii) of this AD.

(i) Before further flight, replace the AOA sensors with new or serviceable sensors, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A84–27–51, dated December 22, 2009.

(ii) Before further flight, replace one of the two AOA sensors with a new or serviceable sensor, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A84–27–51, dated December 22, 2009. Replace the remaining sensor with a new or serviceable sensor within 750 flight hours after the inspection required by paragraph (g) of this AD.

(4) If only one of the serial numbers of the AOA sensors is specified in paragraph 1.A., Table 1, of Bombardier Alert Service Bulletin A84–27–51, dated December 22, 2009, replace that sensor with a new or serviceable sensor within 750 flight hours after the inspection required by paragraph (g) of this AD.

(h) At the applicable compliance time specified in Table 1 of this AD: Measure the inrush current of the AOA vane, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A84–27–46, dated October 20, 2009.

(1) If, during any measurement required by paragraph (h) of this AD, an AOA vane is found to have an inrush current less than or equal to 1.6 amps, before further flight, replace the vane with a new or serviceable vane, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A84–27–46, dated October 20, 2009. Repeat the measurement of the newly installed vane within 2,000 flight hours after replacement.

(2) If, during any measurement required by paragraph (h) of this AD, an AOA vane is found to have an inrush current greater than 1.6 amps, repeat the measurement of the vane at the applicable compliance time specified in Table 2 of this AD.

TABLE 1—INITIAL MEASUREMENT

For any AOA vane that, as of the effective date of this AD, has accumulated—	Do the initial inrush current measurement—
Less than 5,000 total flight hours	Before the AOA vane has accumulated 5,900 total flight hours.
5,000 or more total flight hours, but less than 6,000 total flight hours	Within 900 flight hours after the effective date of this AD, or before the AOA vane has accumulated 6,500 total flight hours, whichever occurs first.
6,000 or more total flight hours	Within 500 flight hours after the effective date of this AD.

TABLE 2—REPETITIVE MEASUREMENT INTERVALS

If the last inrush current measurement of the serviceable AOA transducer is—	Then repeat the measurement—
More than 1.60 amps, but less than or equal to 1.70 amps	Within 1,000 flight hours after the last inrush current measurement of the serviceable AOA transducer.
More than 1.70 amps	Within 2,000 flight hours after the last inrush current measurement of the serviceable AOA transducer.

(i) As of the effective date of this AD, no person may install, on any airplane, an AOA sensor having P/N C16177AC with any serial number specified in paragraph 1.A., Table 1, of Bombardier Alert Service Bulletin A84–27–51, dated December 22, 2009, unless the sensor has been inspected in accordance with this AD and unless the serial number has a suffix "B."

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows:

(1) Canadian Airworthiness Directive CF–2010–05, dated February 2, 2010, requires an inspection to determine the serial number of the AOA vanes installed on the airplane. However, for clarification, we are requiring an inspection to determine the serial number of the AOA sensors (which are part of the vane), as specified in Bombardier Alert Service Bulletin A84–27–51, dated December 22, 2009.

(2) Canadian Airworthiness Directive CF–2010–05, dated February 2, 2010, states that an airplane may be dispatched with one serviceable unit for a maximum of 1,000 flight hours. However, paragraph (g)(3)(ii) of this AD allows an airplane to be dispatched with one serviceable unit for a maximum of 750 flight hours. This difference has been coordinated with Transport Canada Civil Aviation (TCCA).

(3) Canadian Airworthiness Directive CF–2010–05, dated February 2, 2010, states that if only one of the serial numbers of the affected AOA sensors is found, replace that sensor with a new or serviceable sensor within 1,000 flight hours. However, paragraph (g)(4) of this AD requires replacement with a new or serviceable sensor within 750 flight hours. This difference has been coordinated with TCCA.

Other FAA AD Provisions

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

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

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from

a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

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

Related Information

(k) Refer to MCAI Canadian Airworthiness Directive CF–2010–05, dated February 2, 2010; Bombardier Alert Service Bulletin A84–27–46, dated October 20, 2009; and Bombardier Alert Service Bulletin A84–27–51, dated December 22, 2009; for related information.

Material Incorporated by Reference

(l) You must use Bombardier Alert Service Bulletin A84–27–46, dated October 20, 2009; and Bombardier Alert Service Bulletin A84–27–51, dated December 22, 2009; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

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

Issued in Renton, Washington, on April 15, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–9520 Filed 4–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–1111; Directorate Identifier 2009–NM–147–AD; Amendment 39–16271; AD 2010–09–06]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701 & 702), CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) Airplanes

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

ACTION: Final rule.

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

During an elevator Power Control Unit (PCU) Centering Functional Check on two CL–600–2C10 aircraft, sustained oscillations were discovered when a control rod was disconnected. These sustained oscillations could render the elevator surface inoperable and cause subsequent loss of pitch control of the aircraft.

* * * * *

Loss of pitch control could result in reduced controllability of the airplane. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective June 3, 2010.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 3, 2010.

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

FOR FURTHER INFORMATION CONTACT: Christopher Alfano, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7340; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on December 3, 2009 (74 FR 63331). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

During an elevator Power Control Unit (PCU) Centering Functional Check on two CL–600–2C10 aircraft, sustained oscillations were discovered when a control rod was disconnected. These sustained oscillations could render the elevator surface inoperable and cause subsequent loss of pitch control of the aircraft.

This directive mandates incorporation of a new centering mechanism on the elevator torque tube to prevent these sustained oscillations.

Loss of pitch control could result in reduced controllability of the airplane. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Request To Include Revised Service Information

Comair, Inc., asks that we allow the use of Revision C instead of Revision B of Bombardier Service Bulletin 670BA–27–042 for accomplishing the actions specified in paragraph (f)(1) of the NPRM. Comair, Inc., states that Bombardier has issued Bombardier Service Bulletin 670BA–27–042, Revision C, dated December 10, 2009. We referred to Bombardier Service Bulletin 670BA–27–042, Revision B, dated June 2, 2009, in paragraph (f)(1) of the NPRM as the appropriate source of service information for accomplishing the specified actions.

We agree with the commenter. Bombardier Service Bulletin 670BA–27–042, Revision C, dated December 10, 2009, makes minor updates and editorial changes; no additional work is necessary on airplanes modified in accordance with Revision B. Therefore, we have revised paragraph (f)(1) of this final rule to refer to Bombardier Service Bulletin 670BA–27–042, Revision C, dated December 10, 2009, for accomplishing the specified actions. We have also revised paragraph (f)(2) of this AD to give credit for actions done in accordance with Bombardier Service Bulletin 670BA–27–042, Revision B, dated June 2, 2009.

Explanation of Change Made to This AD

We have changed this AD to identify the correct name of the manufacturer as published in the most recent type certificate data sheet for the affected airplane models.

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Explanation of Change to Costs of Compliance

Since issuance of the NPRM, we have increased the labor rate used in the Costs of Compliance from $80 per work hour to $85 per work hour. The Costs of Compliance information, below, reflects this increase in the specified hourly labor rate.

Costs of Compliance

We estimate that this AD will affect 260 products of U.S. registry. We also estimate that it will take about 35 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $27,626 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $7,956,260, or $30,601 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–09–06 Bombardier, Inc.: Amendment 39–16271. Docket No. FAA–2009–1111; Directorate Identifier 2009–NM–147–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective June 3, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the Bombardier, Inc., airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category.

(1) Model CL–600–2C10 (Regional Jet Series 700, 701 & 702) airplanes having serial numbers 10003 through 10259 inclusive.

(2) Model CL–600–2D15 (Regional Jet Series 705) and Model CL–600–2D24 (Regional Jet Series 900) airplanes having serial numbers 15001 through 15099 inclusive.

Subject

(d) Air Transport Association (ATA) of America Code 27: Flight controls.

Reason

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

During an elevator Power Control Unit (PCU) Centering Functional Check on two CL–600–2C10 aircraft, sustained oscillations were discovered when a control rod was disconnected. These sustained oscillations could render the elevator surface inoperable and cause subsequent loss of pitch control of the aircraft.

This directive mandates incorporation of a new centering mechanism on the elevator torque tube to prevent these sustained oscillations.

Loss of pitch control could result in reduced controllability of the airplane.

Actions and Compliance

(f) Unless already done, do the following actions.

(1) Within 6,000 flight hours after the effective date of this AD, install a new PCU centering mechanism, in accordance with the Accomplishment Instructions of Bombardier

Service Bulletin 670BA–27–042, Revision C, dated December 10, 2009.

(2) Incorporation of Bombardier Service Bulletin 670BA–27–042, dated October 14, 2008; or Revision A, dated January 8, 2009; before the effective date of this AD, is considered acceptable for compliance with this AD only if Bombardier Repair Engineering Order (REO) 670–27–31–001, dated January 12, 2009; or Bombardier Service Non-Incorporated Engineering Order (SNIEO) S01 or S02 from Bombardier Kit Drawing KBA670–93702, Revision C, dated January 28, 2009; is incorporated at the same time. Incorporation of Bombardier Service Bulletin 670BA–27–042, Revision B, dated June 2, 2009, before the effective date of this AD, is considered acceptable for compliance with the corresponding actions in this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

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

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

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

Related Information

(h) Refer to Canadian Airworthiness Directive CF–2009–28, dated June 29, 2009; and Bombardier Service Bulletin 670BA–27–042, Revision C, dated December 10, 2009; for related information.

Material Incorporated by Reference

(i) You must use Bombardier Service Bulletin 670BA–27–042, Revision C, dated December 10, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

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

Issued in Renton, Washington, on April 15, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–9522 Filed 4–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0356; Directorate Identifier 2009–SW–72–AD; Amendment 39–16266; AD 2010–09–01]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS350B, BA, B1, B2, B3, C, D, and D1; AS 355E, F, F1, F2, N, and NP Helicopters

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

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for the specified Eurocopter France (Eurocopter) model helicopters. This AD results from a mandatory continuing airworthiness information (MCAI) AD issued by the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community. The MCAI AD was issued following the discovery of a potential risk of an untimely squib firing that would cut the hoist cable. A short circuit in the hoist motor brush power supply wiring resulting in an uncommanded squib firing, which cuts the hoist cable, constitutes an unsafe condition.

DATES: This AD becomes effective on May 14, 2010.

The incorporation by reference of Eurocopter Alert Service Bulletin No. 25.00.85 and No. 25.00.95, both dated November 16, 2005, is approved by the Director of the Federal Register as of May 14, 2010.

We must receive comments on this AD by June 28, 2010.

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

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

You may get the service information identified in this AD from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527.

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 economic evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: George Schwab, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Safety Management Group, Fort Worth, Texas 76193–0112, telephone (817) 222–5114, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Community, has issued EASA AD No. 2006–0164, dated June 9, 2006, to correct an unsafe condition for these French certificated products. The MCAI AD states: "This AD is issued following the discovery of a potential risk of

untimely squib firing, resulting in the cable being cut." A short circuit in the hoist motor brush power supply wiring resulting in an uncommanded squib firing, which cuts the hoist cable, constitutes an unsafe condition. You may obtain further information by examining the MCAI AD and service information in the AD docket.

Related Service Information

Eurocopter has issued Alert Service Bulletin Nos. 25.00.85 and 25.00.95, both dated November 16, 2005. The actions described in the MCAI AD are intended to correct the same unsafe condition as that identified in the service information.

FAA's Evaluation and Unsafe Condition Determination

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, their Technical Agent, has notified us of the unsafe condition described in the MCAI AD. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of these same type designs.

Differences Between This AD and the MCAI AD

This AD differs from the MCAI AD in that it:

- Does not include the Model BB helicopters but does include Model AS350C, D1 and AS 355 NP helicopters;
- Does not require the actions specified in the Compliance section, paragraph 1 of the MCAI AD;
- Does not address spares; and
- Requires compliance before the next hoist operation instead of within 30 days.

These differences are highlighted in the "Differences Between This AD and MCAI AD" section of this AD.

Costs of Compliance

We estimate that this AD will affect 27 helicopters of U.S. registry and that it will take about 2 work hours to modify the hoist squib wiring. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost to the fleet of helicopters to be $4,590.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because of the potential of the untimely firing of a cable cutter squib on Goodrich electric hoists resulting in the unintended cutting of a cable and dropping the hoist seat and occupant. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0356; Directorate Identifier 2009–SW–72–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–09–01 Eurocopter France: Amendment 39–16266. Docket No. FAA–2010–0356; Directorate Identifier 2009–SW–72–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective on May 14, 2010.

Other Affected ADs

(b) None.

Applicability

(c) This AD applies to Model AS350B, BA, B1, B2, B3, C, D and D1; and AS 355E, F, F1, F2, N, and NP helicopters with a Goodrich Electric hoist, part number (P/N) 76370–XXX, which has not been modified per Modification (MOD) 073318 and with a hoist motor other than an AUXILEC, installed, certificated in any category.

Reason

(d) The mandatory continued airworthiness (MCAI) AD was issued following the discovery of a potential risk of an untimely squib firing that would cut the hoist cable. A short circuit in the hoist motor brush power supply wiring resulting in an uncommanded squib firing, which cuts the hoist cable, constitutes an unsafe condition.

Actions and Compliance

(e) Before the next hoist operation, unless already accomplished, disconnect the ground wire for the hoist squib wiring and test the hoist system to assure that the squib can be electrically fired (MOD 073318) by following the Accomplishment Instructions, Paragraph 2.B.1. through 2.B.4., of Eurocopter Alert Service Bulletin (ASB) No. 25.00.95, for the AS350 model helicopters or ASB No. 25.00.85, for the AS355 model helicopters, both dated November 16, 2005, as appropriate for your model helicopter.

Differences Between This AD and the MCAI AD

(f) This AD differs from the MCAI AD in that it:

(1) Does not include the Model BB helicopters but does include the Model AS350C and D1 and Model AS355NP helicopters;

(2) Does not require the actions specified in the Compliance section, paragraph 1 of the MCAI AD;

(3) Does not address spares; and

(4) Requires compliance before the next hoist operation instead of within 30 days.

Other Information

(g) Alternative Methods of Compliance (AMOCs): The Manager, Safety Management Group, FAA, ATTN: George Schwab, Aerospace Engineer, Rotorcraft Directorate, Fort Worth, Texas 76193–0112, telephone (817) 222–5114, fax (817) 222–5961, has the authority to approve AMOCs for this AD, if requested, using the procedures found in 14 CFR 39.19.

(h) Special Flight Permits: Special flight permits may be issued under 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be done provided that the hoist is not used.

Related Information

(i) Mandatory Continuing Airworthiness Information (EASA) Airworthiness Directive No. 2006–0164, dated June 9, 2006, contains related information.

Joint Aircraft System/Component (JASC) Code

(j) The JASC Code is 25: Equipment/ Furnishings.

Material Incorporated by Reference

(k) You must use the specified portions of Eurocopter Alert Service Bulletin No. 25.00.95 or No. 25.00.85, both dated November 16, 2005, to do the actions required.

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

(2) For the service information identified in this AD, contact American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527.

(3) You may review copies of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Fort Worth, Texas, on March 15, 2010.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2010–9006 Filed 4–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0410; Directorate Identifier 2010–SW–024–AD; Amendment 39–16265; AD 2010–05–51]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France (ECF) Model EC120B Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 2010–05–51, which was sent previously to all known U.S. owners and operators of ECF Model EC120B helicopters by individual letters. This AD requires, at specified intervals, inspecting the main rotor head rotor hub (rotor hub) for a crack. If you find scoring, paint flaking or left-over identification plate adhesive, the AD requires sanding the area until the primer coat becomes visible and inspecting the rotor hub for a crack. If you find a crack, the AD requires, before further flight, replacing the rotor hub with an airworthy rotor hub. This amendment is prompted by a mandatory continuing airworthiness information (MCAI) AD issued by the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community. The MCAI AD states that ECF has been informed of an emergency landing due to excessive vibrations originating from the main rotor. After an investigation, it was determined that the main rotor head rotor hub (rotor hub) had failed in the attachment area of one of the three drag damper fittings. The actions specified by the AD are intended to prevent failure of a hub, excessive vibrations, loss of a main rotor blade, and subsequent loss of control of the helicopter.

DATES: Effective May 14, 2010, to all persons except those persons to whom it was made immediately effective by Emergency AD (EAD) 2010–05–51, issued on February 24, 2010, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 14, 2010.

Comments for inclusion in the Rules Docket must be received on or before June 28, 2010.

ADDRESSES: Use one of the following addresses to submit comments on this AD:

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

You may get the service information identified in this AD from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, TX 75053–4005, telephone (800) 232–0323, fax (972) 641–3710, or at *http://www.eurocopter.com.*

Examining the Docket: You may examine the docket that contains the AD, any comments, and other information 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 Docket Operations office (telephone (800) 647–5527) is located in Room W12–140 on the ground floor of the West Building at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: DOT/FAA Southwest Region, Gary Roach, ASW–111, Aviation Safety Engineer, Rotorcraft Directorate, Regulations and Guidance Group, 2601 Meacham Blvd, Fort Worth, Texas 76137, telephone (817) 222–5130, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: On February 24, 2010, the FAA issued EAD

2010–05–51 for the ECF Model EC120B helicopters. This AD requires, within specified intervals, inspecting the rotor hub for a crack and removing the identification plate and cleaning the area. If you find scoring, paint flaking or left-over identification plate adhesive, the AD requires sanding the area until the primer coat becomes visible and inspecting the rotor hub for a crack. If you find a crack, the AD requires, before further flight, replacing the rotor hub with an airworthy rotor hub. This amendment is prompted by an emergency landing due to excessive vibrations originating from the main rotor. After an investigation, it was determined the rotor hub had failed in the attachment area of one of the three drag damper fittings. This condition, if not corrected, could result in failure of a hub, excessive vibrations, loss of a main rotor blade, and subsequent loss of control of the helicopter.

EASA, the airworthiness authority for France, notified the FAA that an unsafe condition may exist on these helicopter models. EASA advises of an emergency landing due to a set of amplitude vibrations originating from the main rotor.

ECF has issued Emergency Alert Service Bulletin No. 05A012, Revision 1, dated February 19, 2010 (EASB), which specifies inspecting the rotor hub for a crack. Also, if you find local deterioration (scoring or paint spalling), the EASB specifies sanding the area, removing the finish paint until the primer coat becomes visible, and inspecting the area for a crack. If you find a crack, the EASB specifies replacing the affected rotor hub with a new rotor hub.

EASA classified this service bulletin as mandatory and issued AD No. 2010–0026–E, dated February 19, 2010, to ensure the continued airworthiness of these helicopters in France.

This AD differs from the MCAI AD in that we refer to flight hours as time-in-service (TIS). Also, we do not require you to contact the manufacturer.

This helicopter model is manufactured in France and is type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement with France, EASA, their technical agent, has kept the FAA informed of the situation described above. The FAA has examined the findings of EASA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other ECF Model EC120B helicopters of the same type design, the FAA issued EAD 2010–05–51. The AD requires, at specified intervals, inspecting the rotor hub for a crack. If you find scoring, paint flaking or left-over identification plate adhesive, the AD requires sanding the area and inspecting the specified areas of the rotor hub for a crack. If you find a crack, the AD requires, before further flight, replacing the rotor hub with an airworthy rotor hub. The actions must be done by following specified portions of the EASB. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability and structural integrity of the helicopter. Therefore, inspecting the rotor hub for a crack is required within 15 hours TIS, and if you find a crack, replacing the rotor hub with an airworthy rotor hub is required before further flight, and this AD must be issued immediately.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on February 24, 2010, to all known U.S. owners and operators of ECF Model EC120B helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to 14 CFR 39.13 to make it effective to all persons. However, we made a minor editorial change in paragraph (a) of this AD. We added the word, "Eurocopter" in front of the words, "Emergency Alert Service Bulletin," which we inadvertently omitted in the EAD. We have determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that this AD will affect 114 helicopters of U.S. registry, and inspecting the rotor hub for a crack will take a minimal amount of time. It will take about 1 hour to do the sanding, assuming 37 rotor hubs require sanding. It will take about 6 hours to replace a rotor hub, assuming 2 helicopters will require replacement of a rotor hub. The average labor rate is $85 per hour. Required parts will cost about $61,685 per helicopter. Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be $127,535.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA–2010–0410; Directorate Identifier 2010–SW–024–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

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

Regulatory Findings

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

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

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

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

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

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

Authority for This Rulemaking

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, pursuant to 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. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2010–05–51 Eurocopter France: Amendment 39–16265. Docket No. FAA–2010–0410; Directorate Identifier 2010–SW–024–AD.

Applicability

Model EC120B helicopters, with a main rotor head with a rotor hub, part number (P/N) C622A1002103, C622A1002104, or C622A1002105, installed, certificated in any category.

Compliance

Required as indicated.

To prevent failure of a main rotor hub, excessive vibrations, loss of a main rotor blade, and subsequent loss of control of the helicopter, do the following:

(a) Within 15 hours time-in-service (TIS), unless done previously, and thereafter at intervals not to exceed 15 hours TIS, inspect the rotor hub for a crack in the areas depicted in Figures 1 and 2, areas "A1" and "A2," of Eurocopter Emergency Alert Service Bulletin No. 05A012, Revision 1, dated February 19, 2010 (EASB). If the identification plate "b" depicted in Figure 2 of the EASB is in the inspection areas "A1" or "A2," remove the plate and clean the area where the identification plate information will be marked "B," by following the Accomplishment Instructions, paragraph 2.B.2.a., of the EASB.

(1) If you find scoring, paint flaking, or left-over identification plate adhesive, sand the area using No. 600-grit (fine grit) abrasive paper until the primer coat becomes visible and inspect the rotor hub for a crack.

(2) If you find a crack, before further flight, replace the rotor hub with an airworthy rotor hub.

(b) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Safety Management Group, ATTN: DOT/FAA Southwest Region, Gary Roach, ASW–111, Aviation Safety Engineer, Rotorcraft Directorate, Regulations and Guidance Group, 2601 Meacham Blvd, Fort Worth, Texas 76137, telephone (817) 222–5130, fax (817) 222–5961, for information about previously approved alternative methods of compliance.

(c) Special flight permits will not be issued.

(d) The Joint Aircraft System/Component (JASC) Code is 6220: Main Rotor Head.

(e) The inspections shall be done by following the specified portions of Eurocopter Emergency Alert Service Bulletin No. 05A012, Revision 1, dated February 19, 2010. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, TX 75053–4005, telephone (800) 232–0323, fax (972) 641–3710, or at *http://www.eurocopter.com.* Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(f) This amendment becomes effective on May 14, 2010, to all persons except those persons to whom it was made immediately effective by EAD 2010–05–51, issued February 24, 2010, which contained the requirements of this amendment.

Note: The subject of this AD is addressed in European Aviation Safety Agency AD No. 2010–0026–E, dated February 19, 2010.

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

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2010–9007 Filed 4–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0124 Directorate Identifier 2010–CE–002–AD; Amendment 39–16274; AD 2010–09–09]

RIN 2120–AA64

Airworthiness Directives; Piaggio Aero Industries S.p.A. Model PIAGGIO P–180 Airplanes

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

ACTION: Final rule.

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

A failure of fuel pump sealing, due to possible incorrect maintenance procedures and subsequent testing, caused a fuel leakage into the main landing gear bay. Presence of fuel vapours in that zone creates a risk of fire due to presence of potential ignition sources such as electrical equipment and connectors.

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

DATES: This AD becomes effective June 3, 2010.

On June 3, 2010, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4145; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal**

Register on February 19, 2010 (75 FR 7409). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

A failure of fuel pump sealing, due to possible incorrect maintenance procedures and subsequent testing, caused a fuel leakage into the main landing gear bay. Presence of fuel vapours in that zone creates a risk of fire due to presence of potential ignition sources such as electrical equipment and connectors.

As a consequence, this new Airworthiness Directive (AD) requires a functional check of main and stand-by fuel pumps for absence of leakage and an update of the Aircraft Maintenance Manual (AMM).

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 63 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $10 per product.

Based on these figures, we estimate the cost of this AD to the U.S. operators to be $11,340 or $180 per product.

In addition, we estimate that any necessary follow-on actions would take about 40 work-hours and require parts costing $7,349, for a total cost of $10,749 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–09–09 Piaggio Aero Industries S.p.A.: Amendment 39–16274; Docket No. FAA–2010–0124; Directorate Identifier 2010–CE–002–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective June 3, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model PIAGGIO P–180 airplanes, all serial numbers up to and including serial number 1192, certificated in any category.

Subject

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

Reason

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

A failure of fuel pump sealing, due to possible incorrect maintenance procedures and subsequent testing, caused a fuel leakage into the main landing gear bay. Presence of fuel vapours in that zone creates a risk of fire due to presence of potential ignition sources such as electrical equipment and connectors.

As a consequence, this new Airworthiness Directive (AD) requires a functional check of main and stand-by fuel pumps for absence of leakage and an update of the Aircraft Maintenance Manual (AMM).

Actions and Compliance

(f) Unless already done, do the following actions:

(1) For all airplanes, within 30 days after June 3, 2010 (the effective date of this AD), incorporate PIAGGIO P.180 AVANTI Maintenance Manual Temporary Revisions No. 33 and 34, both dated July 7, 2009; or PIAGGIO P.180 AVANTI II Maintenance Manual Temporary Revisions No. 31 and 41, both dated July 7, 2009, as applicable, in the approved operator's airplane maintenance program, *e.g.,* aircraft maintenance manual (AMM).

(2) For all airplanes equipped with any main or standby fuel pump part number

1C12–43 that has been replaced for any reason on or before doing the action in paragraph (f)(1) of this AD, within 150 hours time-in-service after June 3, 2010 (the effective date of this AD) do a functional inspection of the main and standby fuel pumps for leakage following steps 1 through 14 of the Accomplishment Instructions of PIAGGIO AERO INDUSTRIES S.p.A Service Bulletin (Mandatory) N.: 80–0278, dated July 15, 2009.

(3) If any leakage is found during the inspection required in paragraph (f)(2) of this AD, before further flight, replace the fuel pump with a serviceable unit following the Accomplishment Instructions in PIAGGIO AERO INDUSTRIES S.p.A Service Bulletin (Mandatory) N.: 80–0278, dated July 15, 2009. For the purpose of this AD, a serviceable fuel pump is a pump where no leakage is found during the functional inspection as instructed in the Accomplishment Instructions of PIAGGIO AERO INDUSTRIES S.p.A Service Bulletin (Mandatory) N.: 80–0278, dated July 15, 2009.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4145; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI EASA AD No.: 2009–0228, dated October 26, 2009; and PIAGGIO AERO INDUSTRIES S.p.A Service Bulletin (Mandatory) N.: 80–0278, dated July 15, 2009, for related information.

Material Incorporated by Reference

(i) You must use PIAGGIO AERO INDUSTRIES S.p.A Service Bulletin (Mandatory) N.: 80–0278, dated July 15, 2009; PIAGGIO P.180 AVANTI Maintenance Manual Temporary Revisions No. 33 and 34, both dated July 7, 2009; and PIAGGIO P.180 AVANTI II Maintenance Manual Temporary Revisions No. 31 and 41, both dated July 7, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Piaggio Aero Industries S.p.a., Via Cibrario, 4—16154 Genoa, Italy; fax: +39 010 6481 881; Internet: *http://www.piaggioaero.com.*

(3) You may review copies of the service information incorporated by reference for this AD at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the Central Region, call (816) 329–3768.

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

Issued in Kansas City, Missouri, on April 19, 2010.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–9609 Filed 4–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0381; Directorate Identifier 2009–NM–146–AD; Amendment 39–16268; AD 2010–09–03]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 747–200B Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Model 747–200B series airplanes. This AD requires repetitive inspections for cracking of the fuselage skin lap joints at stringer 6 on the left and right sides from station (STA) 340 to STA 400, a one-time general visual inspection to determine if certain fasteners are installed and to determine if service repair manual (SRM) repairs or repair doublers are installed, and corrective actions if necessary. Doing an optional modification of the stringer 6 lap joints terminates the repetitive inspections for the modified area. This AD results from reviews done by Boeing, which show that airplanes that were modified by Boeing to the stretched upper deck (SUD) configuration require inspection for cracking of the stringer 6 lap joint upper-fastener row earlier than previously expected. We are issuing this AD to detect and correct cracking of the stringer 6 lap joints where certain external doublers were not installed, which could result in rapid decompression and loss of structural integrity of the airplane.

DATES: This AD is effective May 14, 2010.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of May 14, 2010.

We must receive comments on this AD by June 28, 2010.

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

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

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

Examining the AD Docket

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

5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6437; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

Review by Boeing has determined that airplanes that were modified by Boeing to the stretched upper deck (SUD) configuration require inspecting the stringer 6 lap joint upper fastener row for cracking at an earlier time than expected. Previously, no inspections of this area were recommended prior to accomplishment of Boeing Service Bulletin 747–53–2272, Zone 1 modification, which involves installing external doublers. If the external doublers have not been installed on the stringer 6 lap joints, cracks could develop in the lap joints. Skin cracks could join together and result in rapid decompression and loss of structural integrity of the airplane.

Relevant Service Information

We reviewed Boeing Alert Service Bulletin 747–53A2809, dated June 18, 2009. This service bulletin specifies that, for airplanes with external doublers installed in accordance with Boeing Service Bulletin 747–53–2272, no further work is necessary.

For the other affected airplanes, Boeing Alert Service Bulletin 747–53A2809, dated June 18, 2009, describes procedures for repetitive external detailed and high frequency eddy current (HFEC) inspections to detect cracking of the left and right side stringer 6 lap joints, doing a one-time general visual inspection to determine whether certain fasteners exist in the upper-fastener row of the lap joints and to determine whether any service repair manual (SRM) repairs or repair doublers are installed, and corrective actions if necessary. Corrective actions include repairing any cracks that are found, and contacting Boeing for repair instructions if certain fasteners, or if any SRM repairs or repair doublers other than those installed per Boeing Service Bulletin 747–53–2272,

Zone 1 modification, are found in the inspection area.

Boeing Alert Service Bulletin 747–53A2809, dated June 18, 2009, also specifies that the optional accomplishment of a modification would eliminate the need to do the repetitive inspections, repair cracks, or contact Boeing for instructions if certain fasteners are found. This modification involves removing the upper row of fasteners at the stringer 6 lap joints from STA 340 to STA 400 doing open-hole HFEC inspections to detect skin cracks; and doing corrective actions if necessary (*e.g.,* trimming out any cracks found during any inspection), and installing external doublers as specified in the Zone 1 modification of Boeing Service Bulletin 747–53–2272.

The compliance time for the initial inspections is 10,000 flight cycles after the airplane was modified to the SUD configuration, or within 50 flight cycles after the date on Boeing Alert Service Bulletin 747–53A2809, whichever occurs later. The repetitive interval is 3,000 flight cycles. The compliance time for the corrective actions is before further flight.

FAA's Determination and Requirements of This AD

No Model 747–200B series airplanes affected by this AD are on the U.S. Register. We are issuing this AD because the unsafe condition described previously is likely to exist or develop on other products of the same type design that could be registered in the United States in the future. This AD requires repetitive inspections of the left and right side stringer 6 lap joints from STA 340 to STA 400.

Since no U.S. Model 747–200B series airplanes are affected by this AD, notice and opportunity for public comment before issuing this AD are unnecessary.

Differences Between the AD and the Service Information

Boeing Alert Service Bulletin 747–53A2809, dated June 18, 2009, specifies to contact the manufacturer for instructions on how to repair certain conditions, but this AD would require repairing those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments before it becomes effective. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0381; Directorate Identifier 2009–NM–146–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–09–03 The Boeing Company: Amendment 39–16268. Docket No. FAA–2010–0381; Directorate Identifier 2009–NM–146–AD.

Effective Date

(a) This airworthiness directive (AD) is effective May 14, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to The Boeing Company Model 747–200B series airplanes, certificated in any category, identified as Group 1, Configuration 2, in Boeing Alert Service Bulletin 747–53A2809, dated June 18, 2009.

Subject

(d) Air Transport Association (ATA) of America Code 53: Fuselage.

Unsafe Condition

(e) This AD results from reviews done by Boeing, which show that airplanes modified to the stretched upper deck (SUD) configuration by Boeing require inspection for cracking of the upper-fastener row of the left and right side stringer 6 lap joints earlier than expected. The Federal Aviation Administration is issuing this AD to detect and correct cracking of the stringer 6 lap joints where certain external doublers were not installed, which could result in rapid decompression and loss of structural integrity of the airplane.

Compliance

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

Inspections

(g) Except as required by paragraphs (h) and (i) of this AD: At the applicable time specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 747–53A2809, dated June 18, 2009, do the inspections specified in paragraphs (g)(1) and (g)(2) of this AD, and applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2809, dated June 18, 2009. Do all applicable corrective actions before further flight. Repeat the inspections specified in paragraph (g)(1) of this AD thereafter at intervals not to exceed 3,000 flight cycles, except as provided by paragraph (j) of this AD.

(1) Inspect the left and right side stringer 6 lap joints from station (STA) 340 to STA 400. The inspections include external detailed and high frequency eddy current (HFEC) inspections for cracks in the skin in areas that have not been modified or repaired as specified in paragraph 3.B., Part 2 or Part 3, respectively, of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2809, dated June 18, 2009.

(2) Do a one-time general visual inspection of the lap joints to determine if certain fasteners are installed and to determine if structural repair manual (SRM) repairs or repair doublers are installed.

Note 1: For airplanes on which external doublers have been installed on both side of the airplanes in accordance with Boeing Service Bulletin 747–53–2272, Zone 1 modification, no further work is necessary.

Exceptions to Service Bulletin

(h) Where Boeing Alert Service Bulletin 747–53A2809, dated June 18, 2009, specifies a compliance time after the date on that service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD.

(i) For any condition in which Boeing Alert Service Bulletin 747–53A2809, dated June 18, 2009, specifies to contact Boeing for appropriate action: those actions must be approved using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

Optional Terminating Action

(j) Accomplishing the modification, including the open-hole HFEC inspections to detect skin cracks, and applicable corrective actions, specified in paragraph 3.B., Part 2, of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2809, dated June 18, 2009, terminates the repetitive inspections and repair requirements specified in paragraph (g) of this AD for the side of the airplane on which the modification is done.

Alternative Methods of Compliance (AMOCs)

(k)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6437; fax (425) 917–6590. Or, e-mail information to *9–ANM–Seattle-ACO–AMOC–Requests@faa.gov.*

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

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

Material Incorporated by Reference

(l) You must use Boeing Alert Service Bulletin 747–53A2809, dated June 18, 2009, to do the actions required by this AD, unless the AD specifies otherwise. If you accomplish the optional terminating actions specified by this AD, you must use Boeing Alert Service Bulletin 747–53A2809, dated June 18, 2009, as applicable, to perform those actions, unless the AD specifies otherwise.

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

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

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

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

Issued in Renton, Washington, on April 9, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service..

[FR Doc. 2010–9091 Filed 4–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0123 Directorate Identifier 2010–CE–004–AD; Amendment 39–16267; AD 2010–09–02]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Regional Aircraft Model Jetstream Series 3101 and Jetstream Model 3201 Airplanes

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

ACTION: Final rule.

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

BAE Systems have received three reports of uncommanded flap extensions affecting different Jetstream 31 aeroplanes. In one instance, the aeroplane exceeded the airspeed limit allowed for the uncommanded flap configuration, resulting in damage to the wing trailing edge.

Following investigation, it was considered that a loss of electrical signal to the 'up' solenoid of the flap selector valve had occurred and, combined with the normal internal leakage in the hydraulic system, resulted in hydraulic pressure being supplied to the 'down' side of the flap hydraulic jack. The loss of signal could have been intermittent, and the evidence strongly implicated oxide debris contamination of the flap selector switch contacts.

This condition, if not corrected, could lead to further cases of damage to the aeroplane due to airspeed limit exceedance, possibly resulting in asymmetric flap deployment, which could lead to loss of control of the aeroplane.

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

DATES: This AD becomes effective June 3, 2010.

On June 3, 2010, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on February 19, 2010 (75 FR 7405). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

BAE Systems have received three reports of uncommanded flap extensions affecting different Jetstream 31 aeroplanes. In one instance, the aeroplane exceeded the airspeed limit allowed for the uncommanded flap configuration, resulting in damage to the wing trailing edge.

Following investigation, it was considered that a loss of electrical signal to the 'up' solenoid of the flap selector valve had occurred and, combined with the normal internal leakage in the hydraulic system, resulted in hydraulic pressure being supplied to the 'down' side of the flap hydraulic jack. The loss of signal could have been intermittent, and the evidence strongly implicated oxide debris contamination of the flap selector switch contacts.

This condition, if not corrected, could lead to further cases of damage to the aeroplane due to airspeed limit exceedance, possibly resulting in asymmetric flap deployment, which could lead to loss of control of the aeroplane.

To address this unsafe condition, BAE Systems have developed a modification for the wiring to the flap selector switch, connecting a different (unused) pair of contacts to provide a duplicated signal path within the switch.

For the reasons described above, this AD requires the modification of the flap selector switch wiring.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 190 products of U.S. registry. We also estimate that it will take about 5 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $50 per product.

Based on these figures, we estimate the cost of this AD to the U.S. operators to be $90,250 or $475 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–09–02 British Aerospace Regional Aircraft: Amendment 39–16267; Docket No. FAA–2010–0123; Directorate Identifier 2010–CE–004–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective June 3, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Jetstream Series 3101 and Jetstream Model 3201 airplanes, all serial numbers, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 27: Flight Controls.

Reason

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

BAE Systems have received three reports of uncommanded flap extensions affecting different Jetstream 31 aeroplanes. In one instance, the aeroplane exceeded the airspeed limit allowed for the uncommanded flap configuration, resulting in damage to the wing trailing edge.

Following investigation, it was considered that a loss of electrical signal to the "up" solenoid of the flap selector valve had occurred and, combined with the normal internal leakage in the hydraulic system, resulted in hydraulic pressure being supplied to the "down" side of the flap hydraulic jack. The loss of signal could have been intermittent, and the evidence strongly implicated oxide debris contamination of the flap selector switch contacts.

This condition, if not corrected, could lead to further cases of damage to the aeroplane due to airspeed limit exceedance, possibly resulting in asymmetric flap deployment, which could lead to loss of control of the aeroplane.

To address this unsafe condition, BAE Systems have developed a modification for the wiring to the flap selector switch, connecting a different (unused) pair of contacts to provide a duplicated signal path within the switch.

For the reasons described above, this AD requires the modification of the flap selector switch wiring.

Actions and Compliance

(f) Unless already done, within 6 months after June 3, 2010 (the effective date of this AD), install modification JM7861, Introduction of a Wire Link to Flap Selector Switch, following the accomplishment instructions of BAE Systems British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 27–JM7861, dated February 12, 2008.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency AD No.: 2009–0267, dated December 17, 2009; and BAE Systems British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 27–JM7861, dated February 12, 2008, for related information.

Material Incorporated by Reference

(i) You must use BAE Systems British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 27–JM7861, dated February 12, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact BAE Systems (Operations) Ltd, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675207, fax: +44 1292 675704; E-mail: *RApublications@baesystems.com.*

(3) You may review copies of the service information incorporated by reference for this AD at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the Central Region, call (816) 329–3768.

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

Issued in Kansas City, Missouri, on April 12, 2010.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–9093 Filed 4–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0385; Directorate Identifier 2010–NM–068–AD; Amendment 39–16269; AD 2010–09–04]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc., Primus EPIC and Primus APEX Flight Management Systems, Installed on, but not Limited to, Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 and ERJ 190 Airplanes, and Pilatus Aircraft Ltd. Model PC–12/47E Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Honeywell International Inc., Primus EPIC and Primus APEX flight management systems (FMS), as installed on the airplanes described above. This AD requires revising the Limitations section of the airplane flight manual to incorporate the procedures necessary to recover from or work around a software anomaly in the FMS. This AD results from discovery of software anomalies which, in certain situations, can cause the FMS to generate misleading navigational guidance to the pilots and to the autopilot system of various airplanes having this same system software. We are issuing this AD to provide the flightcrew with procedures to recover from or work around these software anomalies during flight, which could lead to an airplane departing from its scheduled flight path, and result in possible collision with other aircraft or terrain.

DATES: This AD is effective May 14, 2010.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of May 14, 2010.

We must receive comments on this AD by June 14, 2010.

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

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

For service information identified in this AD, contact Honeywell Technical Operations Center, 1944 E. Sky Harbor Circle, Phoenix, Arizona 85034; telephone 602–365–3099 or 800–601–3099; fax 602–365–3343; e-mail *AeroTechSupport@Honeywell.com;* Internet *http://portal.honeywell.com/wps/portal/aero.*

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: *For transport airplanes:* Chip Adam, Flight Test Pilot, Flight Test Branch, ANM–160L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5369; fax (562) 627–5210.

For small airplanes: Doug Rudolph, Aerospace Engineer, Small Airplane Directorate, FAA, 901 Locust Street, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4059; fax 816–329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

We were notified of two software anomalies discovered in the Honeywell Primus EPIC and Primus APEX flight management systems (FMS): The first anomaly can occur when the destination runway is changed without an arrival or approach entered and the runway is the TO waypoint, which causes the destination runway to become the departure runway; the second anomaly can occur when crossing the 180 degree meridian, which causes the FMS longitude position calculation to move by approximately 180 degrees. These software anomalies can cause the FMS to generate misleading navigational guidance to the pilots and to the autopilot system of various airplanes having this same system software. These conditions, if not corrected, could result in an airplane departing from its scheduled flight path, which could result in possible collision with other aircraft or terrain.

Relevant Service Information

We reviewed the Honeywell service information letters (SILs) specified in the following table. The SILs describe the procedures necessary to recover from or to work around the identified software anomalies in the FMS described above.

TABLE—HONEYWELL SERVICE INFORMATION LETTERS

Honeywell service information letter—	Revision—	Model—	Dated—
D201002000007	Original	PC–12/47E airplanes	February 16, 2010.
D201002000051	1	ERJ 170 and ERJ 190 airplanes	March 26, 2010.
D201002000052	Original	ERJ 170 and ERJ 190 airplanes	March 3, 2010.

FAA's Determination and Requirements of This AD

We are issuing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of these same type designs. This AD requires accomplishing the actions specified in the service information described previously, except as discussed under "Difference Between the AD and the Service Information."

Difference Between the AD and the Service Information

The SILs identified in the previous table do not specify revising the AFMs of the affected airplanes to include the information in the General Information section of the SIL; however, this AD requires revising the applicable AFM to

include that information in order to ensure that the flightcrew has the necessary procedures to recover from or work around the identified anomalies during flight.

Interim Action

We consider this AD interim action. The FMS manufacturer is currently developing a modification that will address the unsafe condition identified in this AD. Once this modification is developed, approved, and available, we might consider additional rulemaking.

FAA's Justification and Determination of the Effective Date

Certain Honeywell FMS software anomalies, in certain situations, can cause the FMS to generate misleading navigational guidance to the pilots and to the autopilot system of various airplanes having this same system. This misleading navigational guidance to the pilots and to the autopilot system causes the airplane to depart from its scheduled flight path, which could result in possible collision with other aircraft or terrain. We have determined that it is imperative that we notify flightcrews of these anomalies and provide them with procedures to recover from or work around these anomalies during flight. Because of our requirement to promote safe flight of civil aircraft and thus the critical need to assure proper navigational guidance from Honeywell FMS, coupled with the short compliance time involved with this action, this AD must be issued immediately.

Because an unsafe condition exists that requires the immediate adoption of this AD, we find that notice and opportunity for prior public comment hereon are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments before it becomes effective. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0385; Directorate Identifier 2010–NM–068–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–09–04 Honeywell International Inc.: Amendment 39–16269. Docket No. FAA–2010–0385; Directorate Identifier 2010–NM–068–AD.

Effective Date

(a) This airworthiness directive (AD) is effective May 14, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Honeywell International Inc., Primus EPIC and Primus APEX flight management systems (FMS), having the FMS part numbers (P/N) listed in Table 1 of this AD, installed on, but not limited to, Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 and ERJ 190 airplanes, and Pilatus Aircraft Ltd. Model PC–12/47E airplanes, certificated in any category.

TABLE 1—PART NUMBERS

FMS Part Number	Model
Primus EPIC FMS P/N PS7027709–00127 (Load 23.1), and PS7027709–00129 (Load 23.2), both with NZ7.1 VAR12ZS FMS software.	ERJ 170 airplanes.
Primus EPIC FMS P/N PS7027709–00214 (Load 23.1), and PS7027709–00217 (Load 23.2), both with NZ7.1 VAR12ZS FMS software.	ERJ 190 airplanes.
Primus APEX FMS P/N EB7037248–00103, with NZ7.1 VAR12 FMS software	PC–12/47E airplanes.

Subject

(d) Air Transport Association (ATA) of America Code 34: Navigation.

Unsafe Condition

(e) This AD results from discovery of software anomalies which, in certain situations, can cause the FMS to generate misleading navigational guidance to the pilots and to the autopilot system of various airplanes having this same system software. The Federal Aviation Administration is issuing this AD to provide the flightcrew with procedures to recover from or work around these software anomalies during flight, which could lead to an airplane departing from its scheduled flight path, and result in possible collision with other aircraft or terrain.

Compliance

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

Revise the Airplane Flight Manual (AFM)

(g) Within 14 days after the effective date of this AD, revise the Limitations section of the applicable AFM to include the information in the applicable service information letter (SIL) specified in Table 2 of this AD.

TABLE 2—SERVICE INFORMATION

Honeywell Service Information Letter—	Revision—	Model—	Dated—
D201002000007	Original	PC–12/47E airplanes	February 16, 2010.
D201002000051	1	ERJ 170 and ERJ 190 airplanes	March 26, 2010.
D201002000052	Original	ERJ 170 and ERJ 190 airplanes	March 3, 2010.

Note 1: The actions required by paragraph (g) of this AD may be done by inserting a copy of the applicable SIL specified in Table 2 of this AD into the applicable AFM. When the applicable SIL has been included in the general revisions of the applicable AFM, the general revisions may be inserted into the AFM, provided the relevant information in the general revision is identical to that in the SIL.

Alternative Methods of Compliance (AMOCs)

(h) The manager of the office having certificate responsibility for the affected airplanes has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Before using any approved AMOC on any aircraft to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(1) *For transport airplanes:* Send information to ATTN: Chip Adam, Flight Test Pilot, Flight Test Branch, ANM–160L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5369; fax (562) 627–5210.

(2) *For small airplanes:* Send information to ATTN: Doug Rudolph, Aerospace Engineer, Small Airplane Directorate, FAA, 901 Locust Street, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4059; fax (816) 329–4090.

Material Incorporated by Reference

(i) You must use the applicable service information contained in Table 3 of this AD to do the actions required by this AD, unless the AD specifies otherwise.

TABLE 3—MATERIAL INCORPORATED BY REFERENCE

Document	Revision	Date
Honeywell Service Information Letter D201002000007	Original	February 16, 2010.
Honeywell Service Information Letter D201002000051	1	March 26, 2010.
Honeywell Service Information Letter D201002000052	Original	March 3, 2010.

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

(2) For service information identified in this AD, contact Honeywell Technical Operations Center, 1944 E. Sky Harbor Circle, Phoenix, Arizona 85034; telephone 602–365–3099 or 800–601–3099; fax 602–365–3343; e-mail *AeroTechSupport@Honeywell.com;* Internet *http://portal.honeywell.com/wps/portal/aero.*

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

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

Issued in Renton, Washington on April 8, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–9090 Filed 4–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0525; Directorate Identifier 2009–NM–027–AD; Amendment 39–16275; AD 2010–09–10]

RIN 2120–AA64

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

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

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of

another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

AD CF–2002–12 [which corresponds to FAA AD 2003–04–21, amendment 39–13070] mandated installation of revised overwing emergency exit placards showing that the exit door should be opened and disposed from a seated position. However, it was later discovered that the new placards illustrated an incorrect hand position for removal of the exit upper handle cover. These incorrect instructions could cause difficulty or delay when opening the overwing emergency exit.

As a result, the timely and safe evacuation of passengers and crew may be impeded. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective June 3, 2010.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 3, 2010.

On April 4, 2003 (68 FR 9509, February 28, 2003), the Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD.

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

FOR FURTHER INFORMATION CONTACT: Christopher Alfano, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7340; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That supplemental NPRM was published in the **Federal Register** on December 23, 2009 (74 FR 68198), and proposed to supersede AD 2003–04–21, Amendment 39–13070 (68 FR 9509, February 28, 2003). That supplemental NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

AD CF–2002–12 [which corresponds to FAA AD 2003–04–21] mandated installation of revised overwing emergency exit placards showing that the exit door should be opened and disposed from a seated position. However, it was later discovered that the new placards illustrated an incorrect hand position for removal of the exit upper handle cover. These incorrect instructions could cause difficulty or delay when opening the overwing emergency exit.

As a result, the timely and safe evacuation of passengers and crew may be impeded. The required actions include replacing the incorrect placards with revised placards. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Request To Refer to Updated Service Information

Air Wisconsin requests that we update the supplemental NPRM to refer to the most recent service information. Air Wisconsin notes that Bombardier Service Bulletin 601R–11–088, Revision A, dated March 24, 2009, has been revised. Bombardier has issued Service Bulletin 601R–11–088, Revision B, dated November 17, 2009.

We agree to refer to the latest service information. We have determined that the actions specified in the revised service bulletin are essentially identical to the actions specified in Bombardier Service Bulletin 601R–11–088, Revision A, dated March 24, 2009. We have revised paragraphs (h) and (k) of this AD to refer to Bombardier Service Bulletin 601R–11–088, Revision B, dated November 17, 2009. We have revised paragraph (i) of this AD to also give credit for actions done in accordance with Bombardier Service Bulletin 601R–11–088, Revision A, dated March 24, 2009.

Explanation of Change Made to This AD

We have revised this AD to identify the legal name of the manufacturer as published in the most recent type certificate data sheet for the affected airplane models.

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Explanation of Change to Costs of Compliance

After the supplemental NPRM was issued, we reviewed the figures we have used over the past several years to calculate AD costs to operators. To account for various inflationary costs in the airline industry, we find it necessary to increase the labor rate used in these calculations from $80 per work hour to $85 per work hour. The cost impact information, below, reflects this increase in the specified hourly labor rate.

Costs of Compliance

We estimate that this AD will affect 664 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $128 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $141,432, or $213 per product.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in

air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–13070 (68 FR 9509, February 28, 2003) corrected at 68 FR 14309, March 25, 2003, and adding the following new AD:

2010–09–10 Bombardier, Inc.: Amendment 39–16275. Docket No. FAA–2009–0525; Directorate Identifier 2009–NM–027–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective June 3, 2010.

Affected ADs

(b) This AD supersedes AD 2003–04–21 R1, Amendment 39–13070.

Applicability

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

Subject

(d) Air Transport Association (ATA) of America Code 11: Placards and markings.

Reason

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

AD CF–2002–12 [which corresponds to FAA AD 2003–04–21, amendment 39–13070] mandated installation of revised overwing emergency exit placards showing that the exit door should be opened and disposed from a seated position. However, it was later discovered that the new placards illustrated an incorrect hand position for removal of the exit upper handle cover. These incorrect instructions could cause difficulty or delay when opening the overwing emergency exit.

As a result, the timely and safe evacuation of passengers and crew may be impeded. The required action includes replacing the incorrect placards with revised placards.

Restatement of Certain Requirements of AD 2003–04–21 R1

(f) Unless already done, for airplanes identified in Table 1 of this AD, within 12 months after April 4, 2003 (the effective date of AD 2003–04–21 R1), replace the door weight placards, and no-baggage placards with new placards (including cleaning of the applicable surface), as applicable, per Bombardier Alert Service Bulletin A601R–11–077, Revision A, dated December 11, 2001, excluding Service Bulletin Comment Sheet—Facsimile Reply Sheet and CRJ 100/200 Service Bulletin Compliance Facsimile Reply Sheet.

TABLE 1—SERIAL NOS.

Serial Nos.
7003 through 7434 inclusive.
7436 through 7442 inclusive.
7444 through 7452 inclusive.
7454 through 7458 inclusive.
7460 through 7497 inclusive.
7499 through 7504 inclusive.

(g) Replacement accomplished before April 4, 2003, per Bombardier Alert Service Bulletin A601R–11–077, dated July 12, 2001, is considered acceptable for compliance with the replacement specified in paragraph (f) of this AD.

New Requirements of This AD

Actions and Compliance

(h) Unless already done, within 24 months after the effective date of this AD, replace the existing overwing emergency exit placards with new placards in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 601R–11–088, Revision B, dated November 17, 2009.

(i) Replacing the overwing emergency exit placards with new placards before the effective date of this AD in accordance with Bombardier Service Bulletin 601R–11–088, dated June 25, 2008; or Revision A, dated March 24, 2009; is considered acceptable for compliance with the corresponding action specified in this AD.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows: The MCAI applicability includes certain airplanes. This AD expands the applicability to include serial numbers 7003 and subsequent.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Program Manager, ANE–170, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York, 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD. AMOCs approved previously in accordance with AD 2003–04–21, Amendment 39–13070, are approved as AMOCs for the corresponding provisions of this AD.

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

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

Related Information

(k) Refer to MCAI Canadian Airworthiness Directive CF–2009–02, dated January 19, 2009; Bombardier Alert Service Bulletin A601R–11–077, Revision A, dated December 11, 2001; and Bombardier Service Bulletin 601R–11–088, Revision B, dated November 17, 2009; for related information.

Material Incorporated by Reference

(l) You must use Bombardier Service Bulletin 601R–11–088, Revision B, dated November 17, 2009; and Bombardier Alert Service Bulletin A601R–11–077, Revision A, dated December 11, 2001, excluding Service Bulletin Comment Sheet—Facsimile Reply Sheet and CRJ 100/200 Service Bulletin Facsimile Reply Sheet; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of Bombardier Service Bulletin A601R–11–088, Revision B, dated November 17, 2009, under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The Director of the Federal Register previously approved the incorporation by reference of Bombardier Alert Service Bulletin A601R–11–077, Revision A, dated December 11, 2001, excluding Service Bulletin Comment Sheet—Facsimile Reply Sheet and CRJ 100/200 Service Bulletin Compliance Facsimile Reply Sheet, on April 4, 2003 (68 FR 9509, February 28, 2003).

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

(4) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

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

Issued in Renton, Washington on April 16, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–9594 Filed 4–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

[Docket No. FDA–2010–N–0002]

Implantation or Injectable Dosage Form New Animal Drugs; Butorphanol

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an original abbreviated new animal drug application (ANADA) filed by Modern Veterinary Therapeutics, LLC. The ANADA provides for use of an injectable solution of butorphanol tartrate in cats for the relief of pain.

DATES: This rule is effective April 29, 2010.

FOR FURTHER INFORMATION CONTACT: John K. Harshman, Center for Veterinary Medicine (HFV–170), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8197, e-mail: *john.harshman@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Modern Veterinary Therapeutics, LLC, 1550 Madruga Ave., suite 329, Coral Gables, FL 33146, filed ANADA 200–446 for the use of BUTORPHINE (butorphanol tartrate, USP) Veterinary Injection in cats for the relief of pain. Modern Veterinary Therapeutics' BUTORPHINE Veterinary Injection is approved as a generic copy of TORBUGESIC–SA (butorphanol tartrate, USP) Veterinary Injection, approved under NADA 141–047 held by Fort Dodge Animal Health, Division of Wyeth, a wholly owned subsidiary of Pfizer, Inc. The ANADA is approved as of March 26, 2010, and the regulations in 21 CFR 522.246 are amended to reflect the approval.

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

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

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

List of Subjects in 21 CFR Part 522

Animal drugs.

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

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

§ 522.246 [Amended]

■ 2. In paragraph (b)(2) of § 522.246, remove "No. 059130" and in its place add "Nos. 015914 and 059130".

Dated: April 23, 2010.

William T. Flynn,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 2010–9871 Filed 4–28–10; 8:45 am]

BILLING CODE 4160–01–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[EPA–R10–OW–2010–0086; FRL–9143–2]

Ocean Dumping; Designation of Ocean Dredged Material Disposal Sites Offshore of the Siuslaw River, Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the designation of the Siuslaw River ocean dredged material disposal sites pursuant to the Marine Protection, Research and Sanctuaries Act, as amended (MPRSA). The new sites are needed primarily to serve the long-term need for a location to dispose of material dredged from the Siuslaw River navigation channel, and to provide a location for the disposal of dredged material for persons who have received a permit for such disposal. The newly designated sites will be subject to ongoing monitoring and management to ensure continued protection of the marine environment.

DATES: *Effective Date:* This final rule will be effective June 1, 2010.

ADDRESSES: For more information on this final rule, Docket ID No. EPA–R10–OW–2010–0086 use one of the following methods:

- *http://www.regulations.gov*: Follow the on-line instructions for accessing the docket and materials related to this final rule.
- *E-mail: winkler.jessica@epa.gov.*
- *Mail:* Jessica Winkler, U.S. Environmental Protection Agency, Region 10, Office of Ecosystems, Tribal and Public Affairs (ETPA–088), Environmental Review and Sediment Management Unit, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101.

Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy during normal business hours for the regional library at the U.S. Environmental Protection Agency, Region 10, Library, 10th Floor, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101. For access to the documents at the Region 10 Library, contact the Region 10 Library Reference Desk at (206) 553–1289, between the hours of 9 a.m. to 12 p.m., and between the hours of 1 p.m. to 4 p.m., Monday through Friday, excluding legal holidays, for an appointment.

FOR FURTHER INFORMATION CONTACT: Jessica Winkler, U.S. Environmental Protection Agency, Region 10, Office of Ecosystems, Tribal and Public Affairs (ETPA–088), Environmental Review and Sediment Management Unit, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101, phone number: (206) 553–7369, e-mail: *winkler.jessica@epa.gov*.

SUPPLEMENTARY INFORMATION: On February 4, 2010, EPA published a proposed rule at 75 FR 5708 to designate two new ocean dredged material disposal sites near the mouth of the Siuslaw River, Oregon. EPA received three comments on the proposed rule.

1. Potentially Affected Persons

Persons potentially affected by this action include those who seek or might seek permits or approval by EPA to dispose of dredged material into ocean waters pursuant to the Marine Protection, Research, and Sanctuaries Act, as amended (MPRSA), 33 U.S.C. 1401 to 1445. EPA's final action would be relevant to persons, including organizations and government bodies, seeking to dispose of dredged material in ocean waters offshore of the Siuslaw River, Oregon. Currently, the U.S. Army Corps of Engineers (Corps) would be most affected by this action. Potentially affected categories and persons include:

Category	Examples of potentially regulated persons
Federal Government	U.S. Army Corps of Engineers Civil Works Projects, and other Federal Agencies.
Industry and General Public	Port Authorities, Marinas and Harbors, Shipyards and Marine Repair Facilities, Berth Owners.
State, local and Tribal governments	Governments owning and/or responsible for ports, harbors, and/or berths, Government agencies requiring disposal of dredged material associated with public works projects.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding persons likely to be affected by this action. For any questions regarding the applicability of this action to a particular person, please refer to the contact person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

2. Background

a. History of Disposal Sites Offshore of the Siuslaw River, Oregon

Three ocean dredged material disposal sites, an Interim Site and two selected sites were used by the U.S. Army Corps of Engineers (Corps) for the disposal of sediments dredged from the Siuslaw River navigation project. The "Interim Site," former Site A, was included in the list of approved interim ocean disposal sites for dredged material in the **Federal Register** in 1977 (42 FR 2461), a status superseded by later statutory changes to the MPRSA. Mounding at Site A and concern over the potential for ocean currents to move sediments from Site A back into the dredged channel resulted in a selection of disposal Sites B and C by the Corps pursuant to Section 103 of the MPRSA. That authority allows the Corps to select a site or sites for disposal when a site has not been designated by EPA. The selection of Sites B and C was intended to reduce potential hazards associated with mounding at Site A. The selection of Sites B and C was also intended to increase long-term disposal site capacity near the mouth of the Siuslaw River. EPA concurred on the selection and approved the Corps' request to continue to use Sites B and C through the end of the 2009 dredging season. To provide for sufficient disposal capacity over the long term, EPA proposed to designate two sites, a North Site and a South Site, for the ocean disposal of dredged material near the Siuslaw River in the vicinity of former Sites A, B and C. Those proposed Sites are finalized in this action.

b. Location and Configuration of Siuslaw River Ocean Dredged Material Disposal Sites

This action finalizes the designation of two Siuslaw River ocean dredged material sites to the north and south, respectively, of the mouth of the Siuslaw River. The coordinates, listed below, and Figure 1, below, show the location of the two Siuslaw River ocean dredged material disposal sites (Siuslaw River ODMD Sites, North and South Sites, or Sites). The configuration of the North Site is expected to allow dredged material disposed in shallower portions of the Site to naturally disperse into the littoral zone and augment shoreline building processes. This final designation of the Siuslaw River ODMD Sites will allow EPA to adaptively manage the Sites to avoid creating mounding conditions that could contribute to adverse impacts to navigation.

The coordinates for the two Siuslaw River ODMD Sites are, in North American Datum 83 (NAD 83):

North Siuslaw ODMD Site	South Siuslaw ODMD Site
44° 01′ 31.03″ N, 124° 10′ 12.92″ W	44° 00′ 46.72″ N, 124° 10′ 26.55″ W
44° 01′ 49.39″ N, 124° 10′ 02.85″ W	44° 01′ 06.41″ N, 124° 10′ 24.45″ W
44° 01′ 31.97″ N, 124° 09′ 01.86″ W	44° 01′ 04.12″ N, 124° 09′ 43.52″ W
44° 01′ 13.45″ N, 124° 09′ 11.41″ W	44° 00′ 44.45″ N, 124° 09′ 45.63″ W

The two Sites are situated in approximately 30 to 125 feet of water located to the north and south of the entrance to the Siuslaw River on the southern Oregon Coast (*see* Figure 1). The dimensions of the Sites are 4,800 by 2,000 feet and 3,000 by 2,000 feet, respectively.

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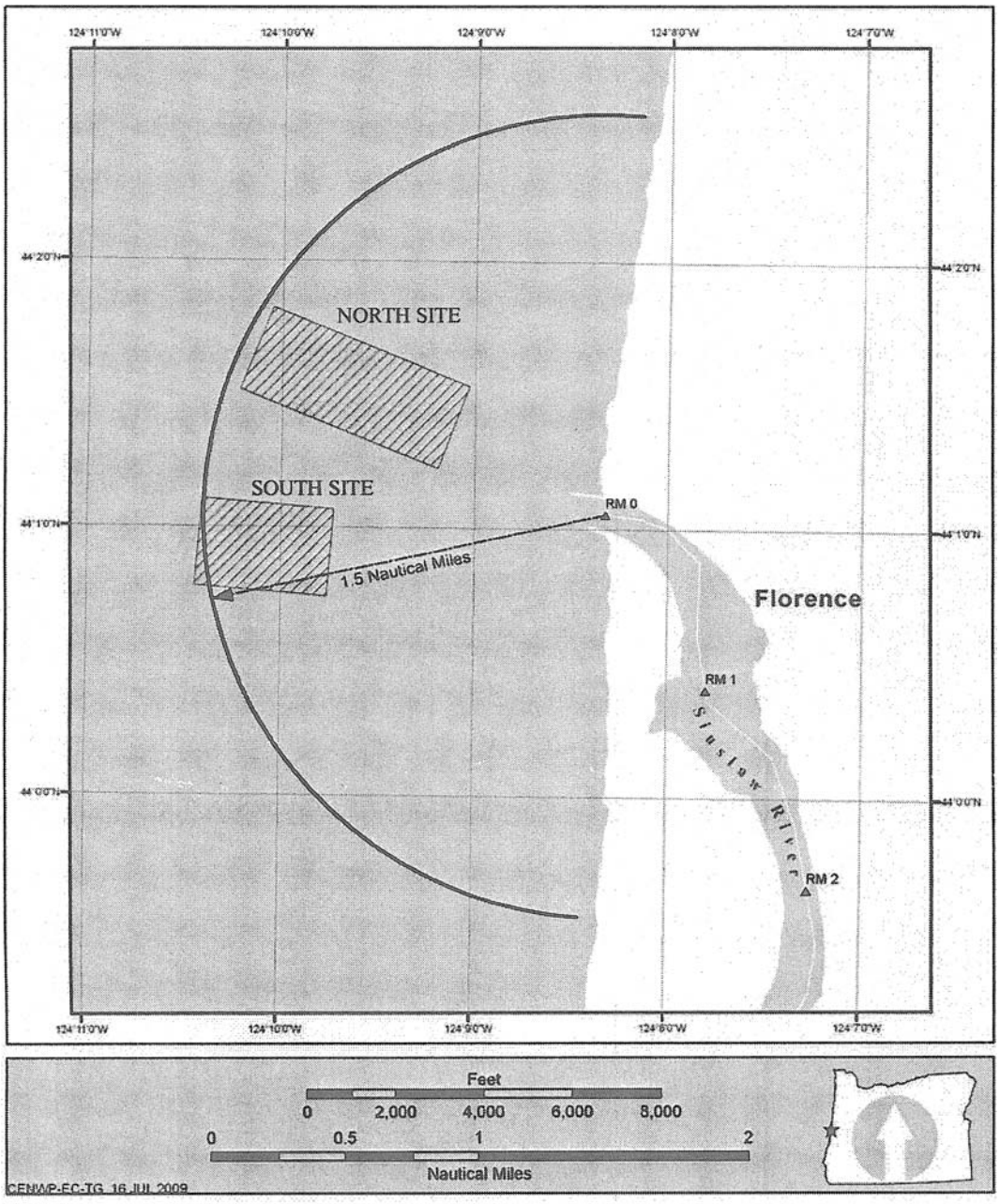

Figure 1. Final North and South Siuslaw ODMD Sites

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c. Management and Monitoring of the Sites

The final Siuslaw Sites are expected to receive sediments dredged by the Corps to maintain the Federally authorized navigation project at the Siuslaw River, Oregon and dredged material from other persons who have obtained a permit for the disposal of dredged material at the Sites. All persons using the Sites are required to follow the final Site Management and Monitoring Plan (SMMP) for the Sites. The SMMP finalized in this action includes management and monitoring requirements to ensure that dredged materials disposed at the Sites are suitable for disposal in the ocean and that adverse impacts of disposal, if any, are addressed to the maximum extent practicable. The final SMMP for the Siuslaw River Sites also addresses management of the Sites to ensure adverse mounding does not occur and to ensure that disposal events are timed to minimize interference with other uses of ocean waters in the vicinity of the proposed Sites.

d. MPRSA Criteria

EPA assessed the Sites against the criteria of the MPRSA, with particular emphasis on the general and specific regulatory criteria of 40 CFR part 228 to determine that the final Site designations satisfied those criteria.

General Criteria (40 CFR 228.5)

(1) Sites must be selected to minimize interference with other activities in the marine environment, particularly avoiding areas of existing fisheries or shellfisheries, and regions of heavy commercial or recreational navigation (40 CFR 228.5(a)).

EPA reviewed the potential for the Sites to interfere with navigation, recreation, shellfisheries, aquatic resources, commercial fisheries, protected geologic features, and cultural and/or historically significant areas and found low potential for conflicts. The final Sites are located close to the approach to the Siuslaw River entrance channel but are unlikely to cause interference with navigation or other uses near the mouth of the Siuslaw River provided close communication and coordination is maintained with other users, vessel traffic control and the U.S. Coast Guard (USCG). Based on the past history of fishing and disposal operations near the mouth of the Siuslaw River, use conflicts are not expected to occur. There is the potential for other recreational users, for example, surfers, boaters, boarders, and divers, to use the near-shore area in the vicinity of the Sites, but EPA does not expect disposal operations at the Sites to conflict with recreationists. The final SMMP outlines site management objectives, including minimizing interference with other uses of the ocean. Should a site use conflict be identified, it is anticipated that site use would be modified according to the SMMP to minimize that conflict.

(2) Sites must be situated such that temporary perturbations to water quality or other environmental conditions during initial mixing caused by disposal operations would be reduced to normal ambient levels or undetectable contaminant concentrations or effects before reaching any beach, shoreline, marine sanctuary, or known geographically limited fishery or shellfishery (40 CFR 228.5(b)).

Based on EPA's review of modeling, monitoring data, analysis of sediment quality, and history of use, the primary impact of disposal activities on water quality is expected to be temporary turbidity caused by the physical movement of sediment through the water column. All dredged material proposed for disposal will be evaluated according to the ocean dumping regulations at 40 CFR 227.13 and guidance developed by EPA and the Corps. In general, dredged material which meets the criteria under 40 CFR 227.13(b) is deemed environmentally acceptable for ocean dumping without further testing. Dredged material which does not meet the criteria of 40 CFR 227.13(b) must be further tested as required by 40 CFR 227.13(c).

Disposal of suitable material meeting the regulatory criteria and deemed environmentally acceptable for ocean dumping will be allowed at the Sites. Most of the dredged material to be disposed of at the Sites is expected to come from the entrance channel, where material is predominantly sand (approximately 97%), while a small amount of material (up to 3%) would be classified as fine-grained. Based on modeling work performed by the Corps, the coarser (sandy) material is expected to settle out of the water column within a few minutes of disposal while the fine-grained material is expected to settle out of the water column less rapidly. No increase in turbidity is expected to be measurable at the beach.

(3) The sizes of disposal sites will be limited in order to localize for identification and control any immediate adverse impacts, and to permit the implementation of effective monitoring and surveillance to prevent adverse long-range impacts. Size, configuration, and location are to be determined as part of the disposal site evaluation (40 CFR 228.5(d)).

EPA sized the final Sites to meet this criterion. The footprints of the Sites are based on the presumed northerly movement of coastal littoral material over the course of the yearly dredging and disposal cycle and are needed to optimize the dispersal of material into the active littoral zone, limit wave effects due to mounding, and keep material from reentering the navigation channel to the south. Use of the shallower portion of the North Site will facilitate increased sediment transport thereby increasing long-term site capacity. Preferential utilization of the shallow portions of the North Site also meets the management goal of keeping material in the littoral system. However, as seen in the 1977 Interim Site, mounding could occur if too much material is placed too quickly in shallow water. EPA's designation of the two Sites with deeper areas within each Site allows site managers to be responsive to annual and long-term sediment transport patterns. Effective monitoring of the Sites is necessary and required. EPA requires annual bathymetric surveys to monitor each Site for capacity and potential mounding concerns.

(4) EPA will, wherever feasible, designate ocean dumping sites beyond the edge of the continental shelf and other such sites where historical disposal has occurred (40 CFR 228.5(e)).

Disposal off the continental shelf would remove natural sediments from the nearshore littoral transport system, a system that functions with largely non-renewable quantities of sand in Oregon. Some of the material disposed at the Sites is expected to be available to the littoral system. Keeping this material in the littoral system with the potential to sustain a dynamic equilibrium along the Oregon coast is perceived as a benefit. The Sites incorporate historic disposal locations within the footprint of each Site, but have been expanded to allow more of the material to remain in the littoral system and allow for increased site capacity.

Specific Criteria (40 CFR 228.6)

(1) Geographical Position, Depth of Water, Bottom Topography and Distance from Coast (40 CFR 228.6(a)(1)).

The geographical position of each Site, including the depth, bottom topography and distance from the coastline, has been chosen to minimize adverse effects to the marine environment. As EPA understands the currents at the Sites and the influence of those currents on the movement of

material in the area, there is a high likelihood that some of the material disposed at the Sites, especially within in the shallower portion of the North site, will be transported to the littoral sediment circulation system. Disposal at the Sites will be managed to allow for maximum dispersal of material and minimal impact to each Site.

(2) Location in Relation to Breeding, Spawning, Nursery, Feeding, or Passage Areas of Living Resources in Adult or Juvenile Phases (40 CFR 228.6(a)(2)).

The Sites are not located in exclusive breeding, spawning, nursery, feeding or passage areas for adult or juvenile phases of living resources. Near the Sites, a variety of pelagic and demersal fish species, including salmon, as well as shellfish, are found. The benthic fauna at the Sites is common to nearshore, sandy, wave-influenced regions of the Pacific Coast in Oregon and Washington.

(3) Location in Relation to Beaches and Other Amenity Areas (40 CFR 228.6(a)(3)).

The Sites, although located in close proximity to the Siuslaw River navigation channel, and near the northern boundary of the Oregon Dunes National Recreation Area, are located a sufficient distance offshore to avoid adverse impacts to beaches and other amenity areas including two public recreation areas located to the north of the Siuslaw River, Heceta Beach Park and Harbor Vista Park. Transportation of dredges or barges to and from the Sites to dispose of dredged material will be coordinated to avoid disturbance of other activities near the Siuslaw River entrance channel. There are no rocks or pinnacles in the vicinity of either Site. The Sites are sized and located to provide long-term capacity for the disposal of dredged material without causing any impacts to the wave environment at, or near, the Sites. Site monitoring and adaptive management are components of the final SMMP.

(4) Types and Quantities of Wastes Proposed to be Disposed of, and Proposed Methods of Release, including Methods of Packing the Waste, if any (40 CFR 228.6(a)(4)).

Dredged material found suitable for ocean disposal pursuant to the regulatory criteria for dredged material, or characterized by chemical and biological testing and found suitable for disposal into ocean waters, will be the only material allowed to be disposed of at the Sites. No material defined as "waste" under the MPRSA will be allowed to be disposed of at the Sites. The dredged material to be disposed of at the Sites will be predominantly marine sand, far removed from known sources of contamination. Generally, disposal is expected to occur from a hopper dredge, in which case, material will be released just below the surface and the disposal vessel will be required to be under power and to slowly transit the disposal location during disposal. This method of release is expected to spread material at the Sites to minimize mounding and to minimize impacts to the benthic community and to species at the Sites at the time of a disposal event.

(5) Feasibility of Surveillance and Monitoring (40 CFR 228.6(a)(5)).

EPA expects monitoring and surveillance at the Sites to be feasible and readily performed from small surface research vessels. The Sites are accessible for bathymetric and side-scan sonar surveys. At a minimum, annual bathymetric surveys will be conducted at each of the Sites to confirm that no unacceptable mounding is taking place within the Sites or in their immediate vicinity.

(6) Dispersal, Horizontal Transport and Vertical Mixing Characteristics of the Area, Including Prevailing Current Direction and Velocity, if any (40 CFR 228.6(a)(6)).

Dispersal, horizontal transport and vertical mixing characteristics of the area at and in the vicinity of the Sites indicate that the marine sands and fluvial gravels from the Siuslaw River distribute away from the river mouth rapidly. The beaches do not show significant accretion or loss. The bottom current records suggest a bias in transport to the north. Fine grained material tends to remain in suspension and to experience rapid offshore transport compared to other sediment sizes. Sediment transport of sand-sized or coarser material tends to move directly as bedload, but is occasionally suspended by wave action near the seafloor. The Sites are not expected to change these characteristics.

(7) Existence and Effects of Current and Previous Discharges and Dumping in the Area (including Cumulative Effects) (40 CFR 228.6(a)(7)).

Portions of the two Sites were historically used for disposal activity. Disposal of dredged material is not expected to result in unacceptable environmental degradation at the Sites or in the vicinity of the Sites, however mounding will be closely monitored in those previously used portions and preferential use of the shallower portions of the North Site is expected. The final SMMP includes monitoring and adaptive management measures to address potential mounding issues.

(8) Interference with Shipping, Fishing, Recreation, Mineral Extraction, Desalination, Fish and Shellfish Culture, Areas of Special Scientific Importance and Other Legitimate Uses of the Ocean (40 CFR 228.6(a)(8)).

The Sites are not expected to interfere with shipping, fishing, recreation or other legitimate uses of the ocean. Disposals at the Sites will be managed according to the SMMP to minimize interference with other legitimate uses of the ocean through careful timing and staggering of disposals in the Sites. Commercial and recreational fishing and commercial navigation are the primary concerns for which such timing will be needed. EPA is not aware of any plans for mineral extraction offshore of the Siuslaw River at this time. EPA would expect to revise the SMMP if necessary in the event wave energy projects or other renewable or traditional energy projects were proposed and potential conflicts seemed likely. Fish and shellfish culture operations are not under consideration for the area. There are no known areas of special scientific importance in the vicinity of the Sites.

(9) The Existing Water Quality and Ecology of the Sites as Determined by Available Data or Trend Assessment of Baseline Surveys (40 CFR 228.6(a)(9)).

EPA did not identify any potential adverse water quality impacts from ocean disposal of dredged material at the Sites based on water and sediment quality analyses conducted in the study area of the Sites and based on experience with past disposals near the mouth of the Siuslaw River. Fisheries and benthic data show the ecology of the area to be that of a mobile sand community typical of the Oregon Coast.

(10) Potentiality for the Development or Recruitment of Nuisance Species in the Disposal Site (40 CFR 228.6(a)(10)).

Nuisance species, considered as any undesirable organism not previously existing at a location, have not been observed at, or in the vicinity of, the Sites. Material expected to be disposed at the Sites will be uncontaminated marine sands similar to the sediment present at the Sites. The final SMMP includes biological monitoring requirements, which will act to identify any nuisance species and allow EPA to direct special studies and/or operational changes to address the issue if it arises.

(11) Existence at or in Close Proximity to the Site of any Significant Natural or Cultural Feature of Historical Importance (40 CFR 228.6(a)(11)).

No significant cultural features were identified at, or in the vicinity of, the Sites. EPA coordinated with Oregon's State Historic Preservation Officer and with Tribes in the vicinity of the Sites to identify any cultural features. No cultural features were identified. No

shipwrecks were observed or documented within the Sites or their immediate vicinity.

3. Response to Comments

EPA received three comments on the proposed rule. All three comments supported the Site designations. One commenter asked whether the Sites could be extended to run parallel to the coastline in order to create a "speedbump" resulting in decreased wave energy and erosion on the beach. The final Sites include shallow areas (less than 50 ft), where more material is expected to remain in the littoral system, thereby potentially decreasing potential beach erosion. The creation of a nearshore "speedbump" or berm would dissipate wave energy reaching the beach, but would increase the wave height at the berm, potentially creating an unacceptable safety risk. The same commenter asked whether the sandy dredged material could be used to restore an eroded beach rather than be disposed in the Sites. The sandy dredged material in the vicinity of these Sites is already found in abundance onshore in the nearby Oregon Dunes Recreation Area and onshore dune fields. No eroded beaches in the immediate vicinity of the Sites for which this material is needed have been identified at this time.

4. Environmental Statutory Review—National Environmental Policy Act (NEPA); Magnuson-Stevens Act (MSA); Marine Mammal Protection Act (MMPA); Coastal Zone Management Act (CZMA); Endangered Species Act (ESA); National Historic Preservation Act (NHPA)

a. NEPA

Section 102 of the National Environmental Policy Act of 1969, as amended (NEPA), 42 U.S.C. 4321 to 4370f, requires Federal agencies to prepare an Environmental Impact Statement (EIS) for major Federal actions significantly affecting the quality of the human environment. NEPA does not apply to EPA designations of ocean disposal sites under the MPRSA because the courts have exempted EPA's actions under the MPRSA from the procedural requirements of NEPA through the functional equivalence doctrine. EPA has, by policy, determined that the preparation of non-EIS NEPA documents for certain EPA regulatory actions, including actions under the MPRSA, is appropriate. EPA's "Notice of Policy and Procedures for Voluntary Preparation of NEPA Documents," (Voluntary NEPA Policy), 63 FR 58045, (October 29, 1998), sets out both the policy and procedures EPA uses when preparing such environmental review documents. EPA's primary voluntary NEPA document for designating the Sites is the final *Siuslaw River, Oregon Ocean Dredged Material Disposal Sites Evaluation Study and Environmental Assessment, April 2010* (EA), jointly prepared by EPA and the Corps. The final EA and its Technical Appendices, which are part of the docket for this action, provided the threshold environmental review for designation of the two Sites. The information from the EA was used extensively in the discussion of the ocean dumping criteria.

b. MSA and MMPA

EPA prepared an essential fish habitat (EFH) assessment pursuant to Section 305(b), 16 U.S.C. 1855(b)(2), of the Magnuson-Stevens Act, as amended (MSA), 16 U.S.C. 1801 to 1891d, and submitted that assessment to the National Marine Fisheries Service in July, 2009. NMFS reviewed EPA's EFH assessment and an Endangered Species Act (ESA) Biological Assessment and addendum thereto for purposes of the Marine Mammal Protection Act of 1972, as amended (MMPA), 16 U.S.C. 1361 to 1389. NMFS found that all potential adverse effects to ESA-listed marine mammals from EPA's action to designate the Siuslaw Sites are discountable or insignificant. Those findings are documented in the Biological Opinion issued by NMFS to EPA on April 16, 2010. With respect to EFH, NMFS concluded that disposal of dredged material will affect turbidity and sedimentation levels and temporarily decrease prey and nursery resources for pelagic organisms within the Sites during disposal events. However, these effects are avoidable or can be offset or mitigated through further evaluation of the effects and further study of seasonal distribution, abundance and habitat use. These findings are documented in the "Magnuson-Stevens Fishery Conservation and Management Act" section of the Biological Opinion. NMFS included two "conservation recommendations" which encouraged an effects evaluation and a study on distribution, abundance and habitat use. EPA will respond in a separate written response to the NMFS recommendations.

c. CZMA

The Coastal Zone Management Act, as amended (CZMA), 16 U.S.C. 1451 to 1465, requires Federal agencies to determine whether their actions will be consistent with the enforceable policies of approved State programs. EPA prepared a consistency determination for the Oregon Ocean and Coastal Management Program (OCMP), the approved State program in Oregon, to meet the requirements of the CZMA and submitted that determination to the Oregon Department of Land Conservation and Development (DLCD) for review on January 19, 2010. On April 14, 2010, DLCD concurred in writing with EPA that the Site designations were consistent to the maximum extent practicable with the enforceable policies of the OCMP.

d. ESA

The Endangered Species Act, as amended (ESA), 16 U.S.C. 1531 to 1544, requires Federal agencies to consult with NMFS and the U.S. Fish and Wildlife Service (USFWS) to ensure that any action authorized, funded, or carried out by the Federal agency is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of any critical habitat. EPA prepared a Biological Assessment (BA) to assess the potential effects of designating the two Siuslaw River Sites on aquatic and wildlife species and submitted that BA to the NMFS and USFWS in July, 2009. Subsequent to preparation of the BA, EPA prepared an addendum to the BA, which was submitted in December, 2009. EPA found that site designation does not have a direct impact on any of the identified ESA species but also found that indirect impacts associated with reasonably foreseeable future disposal activities had to be considered. These indirect impacts included a short-term increase in suspended solids and turbidity in the water column when dredged material was disposed at the new Sites and an accumulation of material on the ocean floor when material was disposed at the Sites. EPA concluded that while its action may affect ESA-listed species, the action would not be likely to adversely affect ESA-listed species or critical habitat. On August 24, 2009, the USFWS concurred in writing with EPA's finding that the Site designations would not likely adversely affect ESA-listed species or critical habitat.

NMFS issued a Biological Opinion (BO) on April 21, 2010. NMFS concluded that EPA's action is not likely to jeopardize the continued existence of Oregon Coast (OC) coho salmon or southern green sturgeon (Acipenser medirostris), or to destroy or adversely modify critical habitat designated for green sturgeon. NMFS

also concluded that EPA's action would not likely adversely affect southern green sturgeon, euchalon, eastern Stellar sea lions, blue whales, fin whales, humpback whales, Southern Resident Killer whales, marine turtle species, or critical habitat designated for southern green sturgeon or proposed for green leatherback turtles. NMFS concluded that dredging activities were not interrelated to EPA's action. However, NMFS did make a finding that disposal of dredged material at the Sites by the Corps, the anticipated primary user of the Sites, was interrelated to EPA's action.

NMFS then focused its effects analysis on the effects of disposal at the Sites. Looking solely to the effects of disposal of dredged material at the Sites by the Corps from the Corps' Siuslaw River Navigation project, NMFS estimated 19 juvenile OC coho salmon per year were likely to be injured or killed by Corps activities. NMFS acknowledged that EPA's action does not authorize or compel site use and will not itself result in disposal of dredged material. NMFS found that all incidental take will occur at the project-specific level. Based on this finding, NMFS did not find a basis to provide a take authorization in the current BO. NMFS stated that all take authorization will occur in subsequent site-specific consultations.

Finally NMFS included two discretionary conservation recommendations in the BO. The first recommendation suggested collaborating with NMFS and the Corps on a methodology to evaluate the effects of dredging and disposal on ESA-listed species. The second recommendation suggested undertaking a study to determine seasonal distribution, abundance, and habitat use of salmon, sturgeon, and marine turtles in the nearshore within and near the contour of designated ocean dredged material disposal sites. Such recommendations are purely advisory in nature. EPA appreciates that collaboration on a methodology could be helpful and supports NMFS and Corps efforts in such an endeavor. EPA also appreciates that the study recommended by NMFS could contribute to the scientific knowledge base but believes that NMFS, the expert Federal agency on seasonal distribution, abundance and habitat use would be better suited than EPA to carry out such a study.

e. NHPA

EPA initiated consultation with the State of Oregon's Historic Preservation Officer (SHPO) on November 24, 2009, to address the National Historic Preservation Act, as amended (NHPA), 16 U.S.C. 470 to 470a–2, which requires Federal agencies to take into account the effect of their actions on districts, sites, buildings, structures, or objects, included in, or eligible for inclusion in the National Register. EPA determined that no historic properties were affected, or would be affected, by designation of the Sites. EPA did not find any historic properties within the geographic area of the Sites. This determination was based on an extensive review of the National Register of Historic Districts in Oregon, the Oregon National Register list and an assessment of cultural resources near the Sites. The SHPO concurred by letter on December 10, 2009, that the project would have no affect on any known cultural resources.

4. Statutory and Executive Order Reviews

This rule finalizes the designation of two ocean dredged material disposal sites pursuant to Section 102 of the MPRSA. This action complies with applicable executive orders and statutory provisions as follows:

a. Executive Order 12866

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

b. 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.,* because this rule does not establish or modify any information or recordkeeping requirements for the regulated community.

c. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires Federal agencies to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business defined by the Small Business Administration's size regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. EPA determined that this action will not have a significant economic impact on small entities because the final rule will only have the effect of regulating the location of sites to be used for the disposal of dredged material in ocean waters. After considering the economic impacts of this final rule, I certify that this action will not have a significant economic impact on a substantial number of small entities.

d. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1531 to 1538, for State, local, or Tribal governments or the private sector. This action imposes no new enforceable duty on any State, local or Tribal governments or the private sector. 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 the UMRA because it contains no regulatory requirements that might significantly or uniquely affect small government entities. Those entities are already subject to existing permitting requirements for the disposal of dredged material in ocean waters.

e. Executive Order 13132: Federalism

This action does not have federalism implications. It does 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 various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this action.

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

This action does not have Tribal implications, as specified in Executive Order 13175 because the designation of the two ocean dredged material disposal Sites will not have a direct effect on 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. Thus, Executive Order 13175 does not apply to this action. Although Executive Order 13175 does not apply to this action EPA consulted with Tribal

officials in the development of this action, particularly as the action related to potential impacts to historic or cultural resources.

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

EPA interprets Executive Order 13045 (62 FR 19885) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. The action concerns the designation of two ocean dredged material disposal Sites and only has the effect of providing designated locations to use for ocean disposal of dredged material pursuant to Section 102(c) of the MPRSA.

h. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, "Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355) because it is not a "significant regulatory action" as defined under Executive Order 12866.

i. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, 12(d) (15 U.S.C. 272), 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 bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action includes environmental monitoring and measurement as described in EPA's SMMP. EPA will not require the use of specific, prescribed analytic methods for monitoring and managing the designated Sites. The Agency plans to allow the use of any method, whether it constitutes a voluntary consensus standard or not, that meets the monitoring and measurement criteria discussed in the SMMP.

j. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations

Executive Order 12898 (59 FR 7629) 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 determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. EPA assessed the overall protectiveness of designating the disposal Sites against the criteria established pursuant to the MPRSA to ensure that any adverse impact to the environment will be mitigated to the greatest extent practicable.

k. 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 the House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective June 1, 2010.

List of Subjects in 40 CFR Part 228

Environmental protection, Water pollution control.

Authority: This action is issued under the authority of Section 102 of the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. 1401, 1411, 1412.

Dated: April 21, 2010.

Dennis J. McLerran,

Regional Administrator, Region 10.

■ For the reasons set out in the preamble, EPA amends chapter I, title 40 of the Code of Federal Regulations as follows:

PART 228—[AMENDED]

■ 1. The authority citation for Part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

■ 2. Section 228.15 is amended by adding paragraph (n)(14) to read as follows:

§ 228.15 Dumping sites designated on a final basis.

* * * * *

(n) * * *

(14) Siuslaw River, OR—North and South Dredged Material Disposal Sites

(i) North Siuslaw River Site

(A) *Location:*

44°01′31.03″ N, 124°10′12.92″ W,
44°01′49.39″ N, 124°10′02.85″ W,
44°01′31.97″ N, 124°09′01.86″ W,
44°01′13.45″ N, 124°09′11.41″ W.

(B) *Size:* Approximately 1.5 kilometers long and 0.6 kilometers wide.

(C) *Depth:* Ranges from approximately 9 to 35 meters.

(D) *Primary Use:* Dredged material.

(E) *Period of Use:* Continuing Use.

(F) *Restrictions:* (*1*) Disposal shall be limited to dredged material determined to be suitable for ocean disposal according to 40 CFR 227.13 from the Siuslaw River navigation channel and adjacent areas;

(*2*) Disposal shall be managed by the restrictions and requirements contained in the currently-approved Site Management and Monitoring Plan (SMMP);

(*3*) Monitoring, as specified in the SMMP, is required.

(ii) South Siuslaw River Site

(A) *Location:*

44°00′46.72″ N, 124°10′26.55″ W,
44°01′06.41″ N, 124°10′24.45″ W,
44°01′04.12″ N, 124°09′43.52″ W,
44°00′44.45″ N, 124°09′45.63″ W.

(B) *Size:* Approximately 0.9 kilometers long and 0.6 kilometers wide.

(C) *Depth:* Ranges from approximately 24 to 38 meters.

(D) *Primary Use:* Dredged material.

(E) *Period of Use:* Continuing Use.

(F) *Restrictions:* (*1*) Disposal shall be limited to dredged material determined to be suitable for ocean disposal according to 40 CFR 227.13, from the Siuslaw River navigation channel and adjacent areas;

(*2*) Disposal shall be managed by the restrictions and requirements contained in the currently-approved Site Management and Monitoring Plan (SMMP);

(*3*) Monitoring, as specified in the SMMP, is required.

* * * * *

[FR Doc. 2010–9982 Filed 4–28–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2010–0055]

Federal Motor Vehicle Safety Standards; Cargo Carrying Capacity

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

ACTION: Denial of petitions for reconsideration.

SUMMARY: This document denies petitions for reconsideration of a final rule published December 4, 2007 which amended the Federal motor vehicle safety standards (FMVSS) Nos. 110 and 120 on tire selection and rims. The final rule addressed the problem of light vehicle, motor home and recreation vehicle trailer overloading by requiring manufacturers of light vehicles, motor homes, and recreation vehicle trailers to provide, among other matters, information to consumers about the vehicle's load carrying capacity.

DATES: The December 4, 2007 final rule became effective June 2, 2008. Today's document makes no changes to the regulatory text of that final rule

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Mr. Samuel Daniel, Office of Crash Avoidance Standards at (202) 366–4921. His FAX number is (202) 366–7002.

For legal issues, you may call Ms. Dorothy Nakama, Office of the Chief Counsel at (202) 366–2992. Her FAX number is (202) 366–3820.

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SUPPLEMENTARY INFORMATION:

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I. Summary of the December 2007 Final Rule

On December 4, 2007 (72 FR 68442) (Docket No. NHTSA–2007–0040), NHTSA published a final rule that amended Federal Motor Vehicle Safety Standard (FMVSS) Nos. 110 and 120 to address the problem of motor home and recreation vehicle trailer overloading. The final rule took effect on June 2, 2008. Standard No. 110 was renamed, *Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR [Gross Vehicle Weight Rating] of 4,536 kilograms (10,000 pounds) or less.* Standard No. 120 was renamed, *Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds).* Among other things, the December 2007 final rule amended the standards to require all motor homes and recreation vehicle (RV) trailers to bear a label that informs the consumer about the vehicle's load carrying capacity.

Over the years, the agency has received inquiries and complaints from the public about problems resulting from motor home and travel trailer overloading. Many overloading problems surface in the form of complaints about poor handling, reduced braking capabilities, tire failure and the premature failure of suspension components. NHTSA issued the final rule to address the problem of overloading, by helping consumers have a better idea of when the cargo carrying capacities of their motor homes and travel trailers are being met, and exceeded.[1]

The final rule addressed motor homes and RV trailers. The agency believed that many owners of these vehicles are unaware of their vehicle's cargo carrying capacity until a problem becomes apparent. State laws do not require motor homes and travel trailers to use roadside weighing stations as they do for heavy commercial vehicles. NHTSA believed that consumer information in the form of a required label will inform consumers of a motor home or travel trailer's cargo carrying capacity and will result in reduced overloading of the vehicles.

For motor homes and RV trailers, the final rule required labels that display the vehicle identification number (VIN), the weight of a full load of water, the unit weight of water and a cautionary statement that the weight of water is part of cargo. The rule required motor home labels to display the maximum weight of occupants and cargo, and RV trailer labels to display the maximum weight of cargo. In addition, for motor homes, the label must show the seating capacity of the vehicle—based on the number of safety belts in the vehicle—and must indicate that the tongue weight of a towed trailer counts as part of the motor home's cargo.

To promote a consistent conspicuous label location, the final rule specified that permanent load carrying capacity labels be affixed to the interior of the forward-most exterior passenger door on the right side of the vehicle and be visible. As an alternative, to address aesthetic considerations, the rule permitted manufacturers to place a temporary label to the interior of the forward-most exterior passenger door on the right side of the vehicle and to apply a permanent label in the area of the vehicle specified by FMVSS Nos. 110 and 120 for tire information.

In addition, the final rule adopted a threshold for correcting load carrying capacity information on FMVSS No. 110 vehicle placards, motor home occupant and cargo carrying capacity (OCCC) labels and RV trailer cargo carrying capacity (CCC) labels of the lesser of 1.5 percent of GVWR or 100 pounds in FMVSS Nos. 110 and 120. When weight is added between final vehicle certification and first retail sale, the load carrying capacity values on the labels

[1] The rulemaking commenced in response to a petition for rulemaking from Ms. Justine May, who asked NHTSA to amend FMVSS No. 120 in such a way that motor vehicles would be equipped with tires that meet maximum load standards when the vehicle is loaded with a reasonable amount of luggage and the total number of passengers the vehicle is designed to carry. Ms. May's reason for her petition was her family's personal experience with a fifth-wheel travel trailer. She stated that there was no information provided with her trailer stating its cargo carrying capacity. Ms. May believed that loading her vehicle with cargo for a trip placed it in an overloaded condition, resulting in tire blowouts. A discussion of motor home and recreational trailer loading problems can be found in the August 31, 2005 notice of proposed rulemaking (70 FR 51707, 51708) (Docket No. NHTSA–2005–22242).

must be corrected using one or a combination of the following methods: (a) Adding a load carrying capacity modification label within 25 mm of the existing vehicle (FMVSS No. 110) placard, and/or the motor home OCCC label, or RV trailer CCC label (FMVSS Nos. 110 and 120); (b) modifying the original permanent RV load carrying capacity label or vehicle placard with correct load carrying capacity weight values; or (c) replacing the original, permanent RV load carrying capacity label or vehicle placard with the same label or placard containing correct load carrying capacity weight values.

II. Petitions for Reconsideration

NHTSA received petitions for reconsideration from: The Association of International Automobile Manufacturers, Inc. (AIAM); Mr. Dennis Myhre; the National RV Dealers Association (RVDA), and a "joint petition" submitted by the National Automobile Dealers Association (NADA) and Specialty Equipment Market Association (SEMA) (hereafter referred to as "NADA/SEMA").[2]

The issues raised by the petitioners can be categorized as relating to the following: (a) The information that should be provided to consumers; (b) how the information should be displayed or conveyed to the consumer; (c) the weight that can be added to a vehicle after final vehicle certification and before first retail sale without triggering a requirement to re-label the vehicle; [3] and, (d) whether the re-labeling requirement should only apply to "alterers." There were also requests for changes that were outside of the scope of the rulemaking.

For the reasons discussed below, NHTSA is denying all of the petitions for reconsideration.

a. The Information That Should Be Provided to Consumers

1. Water Weight as Cargo

The final rule specified that the motor home occupant and cargo carrying capacity label (OCCC) must state the weight value that the combined weight of occupants and cargo should never exceed. Among other information, the label must provide the weight of a full load of water and the unit weight of water, and must inform consumers that the weight of water is part of the cargo weight. The final rule specified that for RV trailers, the cargo carrying capacity label (CCC label) must specify the weight value that the weight of cargo must never exceed, the weight of a full load of water, the unit weight of water and a caution that the weight of water is part of the cargo weight.

We explained in the final rule that information about on-board water weight is important because filled water tanks can be a significant portion of the vehicle's total cargo capacity. We stated that the level of on-board water can be assessed by the consumer. Further, campgrounds often provide water hook-ups, making it unnecessary sometimes for consumers to carry water. In such cases, the absence of water provides more capacity for cargo.

In a petition for reconsideration, Mr. Dennis Myhre asks that on-board water capacity be considered part of the unloaded vehicle weight (UVW) rather than cargo. He states that most owners fill their tanks completely before leaving home or a campground. He states: "Partially filling the fresh water tank can have negative effects on the ABS [antilock] braking system and steering control, and encouraging the consumer to 'drain' the fresh tank to compensate for carrying capacity is unrealistic and wasteful of our precious natural resources." The petitioner believes that manufacturers have told RV consumers for several years that fresh water is not part of the cargo carrying capacity of their RV, and consumers will now misunderstand the cargo carrying information provided by the new CCC label, and will overload their vehicle.

Agency Response

This request is denied. Although voluntary industry labels have used the term "CCC" to refer to the residual cargo capacity of an RV with a full water tank, we believe that the labels specified in the December 2007 final rule improve the conspicuity and clarity of the previous labels. The new labels emphasize to the consumer that the weight of water is part of cargo. The label clearly states: "The combined weight of occupants and cargo should never exceed *XXX* kg or *XXX* lb," followed by "Caution: A full load of water equals *XXX* kg or *XXX* lb of cargo." These explicit statements should facilitate the consumer's understanding that they must consider the weight of water as cargo.

An important part of the December 2007 final rule for motor homes and RV trailers is the requirement that either the permanent label or a temporary label must be displayed inside the front passenger door before the first retail sale of the vehicle. This requirement ensures that information about the vehicle capacity weight is noticed by the consumer. It is also intended to prevent consumers from buying RVs and later learning that the vehicle capacity weight does not satisfy their needs.

With respect to the labels to which consumers were exposed in the past, it is uncertain that consumers have associated the weight of water with the unloaded vehicle weight simply because the industry label had done so. Previous labels were usually in an obscure location; RV owners who contacted NHTSA usually were unaware of the cargo weight capacity of their vehicles or whether water weight was considered part of the UVW or cargo weight. For example, Ms. Justine May, whose petition commenced the rulemaking resulting in the December 2007 final rule, attributed repeated tire failures of her RV trailer to the absence of information on cargo weight limits for her RV.

We are denying the petition for reconsideration also because the presentation of water weight as a separate item on the label also highlights that there is a trade-off in useable cargo capacity between traveling with a full tank and traveling with a less than full tank. This information should enhance consumers' understanding that the amount of water carried in the water tanks affect the total load they wish to carry in their vehicles. With this information, consumers can make informed decisions about loading their vehicles for a particular trip (*e.g.,* whether more or less water will be carried to compensate for other cargo).

Accordingly, for the above reasons, we deny Mr. Myhre's petition requesting that the weight of onboard water be incorporated into the vehicle's UVW.

2. Dealers Wanting To Require Manufacturers To Weigh Each RV

The final rule requires manufacturers to report the allowable load carrying capacity. In the final rule, we require the statement: "The combined weight of occupants and cargo should never exceed *XXX* kg or *XXX* lbs" on motor homes, and the statement: "The weight of cargo should never exceed *XXX* kg or *XXX* lbs" on RV trailers. These statements are required to state weights that will not overload the vehicle. These requirements allow manufacturers to understate (but not overstate) the weight value for load carrying capacity. This will assure that when the consumer loads the vehicle to the stated load carrying capacity, the vehicle's GVWR

[2] Also signing the joint petition were the Automotive Service Association, the Marine Retailers Association of America, the National Marine Manufacturers, RVDA, the National Truck Equipment Association, and the Tire Industry Association.

[3] Several petitioners stated that the relief provided in the final rule, the lesser of 1.5 percent of vehicle GVWR, or 100 pounds was too low.

will not be exceeded. When the manufacturer states that the load carrying capacity must not exceed a certain weight value, it means that the stated load carrying capacity weight value plus the UVW is less than or equal to the GVWR. The manufacturer must consider product variability to ensure that the load carrying capacity plus the UVW does not exceed the GVWR.[4]

In its petition for reconsideration, RVDA requests that NHTSA require "all recreational vehicles, regardless of weight, be weighed by the final stage manufacturer after all options and equipment are installed, and that the actual weight of the unit be used to calculate the cargo carrying capacity disclosed to the consumer." The petitioner (associated RV dealers) reports that manufacturers used an "exemplar" method [5] to report the unloaded vehicle weight of RVs on a voluntary RV industry label, and that a dealer had been sued because it was discovered that the actual vehicle weight of some RV trailers was substantially greater than that reported on the label. RVDA is concerned that the exemplar method may not take into account unit-specific options, running changes in construction and materials, variations in the density of material used in units built to the same plans, and increases in the weight of wood due to humidity absorption if the exemplar unit was weighed during a drier time of year.

Agency Response

We are denying this request. In the past, manufacturers were not required by the FMVSSs to provide unloaded vehicle weights and the cargo carrying capacity (GVWR minus UVW, full fresh water and full LP-gas weight) of RVs over 10,000 pounds GVWR. We believe that the December 2007 final rule will eliminate the practices that led to overstating the vehicle carrying capacity for these vehicles. The preamble to the final rule (at 72 FR 68456) stated:

* * * we are requiring that the stated load carrying capacity not overload the vehicle. The GVWR of the vehicle must not be exceeded when the vehicle is loaded with the stated load carrying capacity. Manufacturers are permitted to understate the value of load carrying capacity to compensate for variances in manufacturing techniques, materials, and weighing techniques, however, under no circumstances is an overstated value of load carrying capacity permitted. Any inaccuracies due to scale tolerances and variances in manufacturing techniques or materials must be compensated for by appropriately increasing the safety factor between the allotted weight for occupants and cargo (or just cargo in the case of RV trailers) and the GVWR. Accordingly, the probability of moisture absorption by wooden structures before first retail sale should be considered in assigning the load carrying capacity.

Manufacturers are free to weigh each unit and apply a factor of safety for expected moisture absorption to arrive at the vehicle capacity weight, or they can weigh an exemplar unit and adjust for differences in option content, construction details and variations in material density as well as moisture absorption, applying appropriate factors of safety. Regardless, the amendments to FMVSS No. 120 require manufacturers to determine the accurate vehicle capacity weight. We do not believe there is a need to also require manufacturers to weigh each RV individually and provide the weight of the vehicle to the consumer. Accordingly, the request is denied.

3. Providing the UVW to Consumers on the RV Trailer CCC Label

The final rule does not require manufacturers of RV trailers to provide the unloaded vehicle weight (UVW) of the RV trailer on the new cargo carrying capacity (CCC) label, even though the UVW has to be obtained in order to calculate the cargo carrying capacity of the vehicle. In its petition for reconsideration, RVDA asks that NHTSA require that the UVW be disclosed on the RV trailer CCC label "because this information is critical to consumers as well as dealers during the sale and/or use of a travel trailer or fifth wheel, (towable)." According to RVDA:

* * * during the purchase of a towable, the UVW is subtracted from the towing capacity of the consumer's truck or tow vehicle ("tow vehicle") to determine how much cargo can be added to the RV without exceeding the towing capacity of the *tow vehicle. This calculation is not addressed by the rule which deals exclusively with the cargo carrying capacity of the RV itself.* (Emphasis in text.)

RVDA states that without a UVW label, "consumers and dealers will be forced to subtract the Gross Vehicle Weight Rating of the RV from the towing capacity of the tow vehicle to determine the cargo capacity of the tow vehicle." The petitioner states that this situation could "mislead consumers into believing that their tow vehicles could not pull trailers or fifth wheels which they, in reality, could safely pull by utilizing less than the full cargo capacity of the RV."

Agency Response

We are declining this request. The December 2007 final rule was in response to a petition from an RV trailer owner whose trailer experienced safety-related failures as a result of overloading that the owner attributed to insufficient information on vehicle capacity weight. NHTSA believed that the overloading of RVs was problematic and to alleviate the situation, better information was needed. The August 2005 NPRM (at 70 FR 51707) cited the Recreational Vehicle Safety Foundation's 2003 Annual Report to Industry, which found that 47 percent of the 442 RV trailers it weighed [6] in 2003 were overloaded. In contrast, the RVDA describes in its petition, a sales practice that results in customers buying trailers that are too heavy for their tow vehicle if they utilize the full cargo capacity of the trailer. We see no safety advantage to that situation.

In addition, the information sought by the petitioner (the UVW of the RV trailer) can be easily obtained by the dealer. We anticipate that RV dealers will now calculate the UVW of trailers by subtracting the vehicle cargo carrying capacity weight, which is now a labeling requirement, from the trailer's GVWR. Given that both the GVWR and the vehicle cargo carrying capacity weight are required to be labeled, and that the UVW can readily be determined by these factors, we see no safety reason to require manufacturers to also provide the UVW for RV trailers. For these reasons, the request is denied.

b. How the Information Should Be Displayed or Conveyed to the Consumer

1. Owner's Manual Requirements

In its petition, AIAM raises a concern about the relationship between the December 2007 final rule (which amended FMVSS Nos. 110 and 120) and 49 CFR part 575, *Consumer Information.* AIAM noted that 49 CFR 575.6(a)(4)(v) requires manufacturers, for vehicles that have a GVWR of 10,000 lb or less, to include information in the owner's manual (or if there is no owner's manual, in a separate document) [7]

[4] The amended standards require manufacturers to report a vehicle capacity weight value that can be verified by NHTSA during a compliance test (FMVSS No. 110 paragraphs S9.3.2 and S10.2; FMVSS No. 120 S10.4.2), but the standards do not specify how the manufacturer must determine vehicle capacity weight.

[5] According to RVDA's petition, the "exemplar" method of determining the unloaded vehicle weight appears to be the practice of weighing one vehicle and using its weight to represent all vehicles of that model regardless of differences in equipment, changes in materials or construction methods, or seasonal effects.

[6] Not claimed to be a scientific sampling, but an indication that overloading is very common.

[7] For convenience, in this discussion we refer to both documents as the "owner's manual." "Owner's manual" is defined in § 575.2(c).

regarding vehicle load limits, including instructions for locating and understanding the load limit information. Section 575.6(a)(4)(v)(B) requires the owner's manual to provide information for calculating total and cargo load capacities with varying seating configurations, including quantitative examples showing how the vehicle's cargo and luggage capacity decreases as the combined number of occupants increases.

AIAM asks NHTSA to clarify whether the part 575 consumer information vehicle loading information required in the owner's manual must be modified when the vehicle placard is adjusted in accordance with the requirements of the December 2007 final rule.

Agency Response

Our answer is the Part 575 information is not required to be modified. It is not the intent of the part 575 owner's manual language to include load capacity values specific to a particular vehicle. The § 575.6(a)(4)(v) requirement is for general information to be placed in the owner's manual, to inform customers about the capacities of their vehicles, the location of specific load capacity information (placard) on the vehicle, and how this information is calculated. Therefore, neither FMVSS No. 110 nor part 575 requires the owner's manual to have specific information regarding a vehicle's load capacities.

Further, because the part 575 information required is general and not specific to a particular vehicle, the load capacity information in the owner's manual need not be revised when revisions are made to vehicle capacity weight values due to weight additions to a vehicle prior to first sale. The required owner's manual language directs consumers to the vehicle placard required by FMVSS No. 110 for specific vehicle load capacity information. When vehicle placards are adjusted in accordance with requirements of the December 2007 final rule, the corrected information will be available to the consumer.

2. Other Means of Informing Consumers

In his petition for reconsideration, Mr. Myhre urges NHTSA "to incorporate their final ruling information not only in their products, but also in sales literature and Web sites, to better inform the RV Consumer." This request by Mr. Myhre raises issues that were not the subject of the NPRM or the final rule, and so the issues are outside the scope of rulemaking. However, we note that RV dealers and manufacturers are not prevented by the final rule from voluntarily providing information about their vehicles' load capacity values in sales literature and Web sites.

c. The Weight That Can Be Added to a Vehicle After Final Vehicle Certification and Before First Retail Sale Without Triggering a Requirement To Re-Label the Vehicle

The final rule addressed the obligation of manufacturers and dealers to re-label a vehicle when the manufacturer or dealer adds optional equipment and accessories to the vehicle after final vehicle certification and before first retail sale. The terms dealer, manufacturer, alterer, and service facility are used in this document to identify entities that are required to comply with the December 4, 2007 final rule amending FMVSS Nos. 110 and 120. When such equipment increases the vehicle's weight and decreases the weight allotted for passengers and cargo, NHTSA's position is that the manufacturer or dealer making the addition is obligated to revise, as necessary, the information on the vehicle placard required by FMVSS No. 110 and 120 that informs consumers of the vehicle's load carrying capacities. As to what is "necessary," the agency believes that small increases in weight are insignificant, and that it would be unnecessarily burdensome to require dealers to reprint labels with new information each time a small amount of weight is added to a vehicle.

To make clearer the obligation to re-label a vehicle, the December 2007 final rule amended FMVSS Nos. 110 and 120 to specify that, if weight equal to or less than the lesser of 1.5 percent of the vehicle's GVWR or 45.4 kilograms (kg)(100 lb) is added by the dealer before first retail sale, no additional action is required. If weight greater than the lesser of 1.5 percent of the vehicle's GVWR or 45.4 kg (100 lb) is added by the dealer before first retail sale, the dealer must take action (specified in the standards) to re-label the vehicle. The dealer is required to add a label that corrects or modifies the original load carrying capacity values.

The final rule raised the threshold to the lesser of 1.5 percent GVWR or 45.4 kg (100 pounds) from the threshold proposed in the NPRM. The NPRM had proposed a threshold of weight equal to or less than 0.5 percent of GVWR. That is, if weight greater than 0.5 percent of GVWR is added by the dealer before first retail sale, the dealer must add a label that corrects the original values.

In raising the threshold from that proposed in the NPRM, the agency stated in the final rule that setting the threshold of weight at the lesser of 1.5 percent of GVWR or 100 pounds "relieves passenger vehicle dealers of the responsibility for label changes in the vast majority of equipment sales without creating a practical safety problem." 72 FR at 68452. NHTSA stated: "The most commonly installed heavy item by dealers before first retail sale is a heavy duty Class IV trailer hitch for a pickup truck. Such hitches have an advertised shipping weight of less than 36.3 kg (80 lbs). A relatively small pickup truck for this hitch application would have a GVWR of 2721.6 kg (6000 lbs) or greater. This installation would involve equipment representing 1.33 percent of the vehicle's GVWR or less." *Id.*

NHTSA acknowledged that a vehicle with the maximum weight of added equipment of 1.5 percent of GVWR when also loaded to the maximum weight of passengers and cargo specified in the original label could exceed the tire load rating by 1.5 percent as a worst case. However, the agency determined that NHTSA tire research data (*see, e.g.,* Docket NHTSA 2000–8011 item 22) shows that fully inflated tires are not very sensitive to small overloads. Even in a high speed test rigorous enough to fail a third of the tire samples, tires that were slightly overloaded (taking into consideration the curvature of the test wheel) performed comparably to a sample of the same tire make/models with 10 percent less load. 72 FR at 68452. Thus, NHTSA determined a threshold of weight at the lesser of 1.5 percent of GVWR or 100 pounds reasonably balanced the interest of alleviating burdens on dealers and others to re-label the vehicle with load safety considerations.

Petitions for Reconsideration

1. Raising the Threshold

AIAM, RVDA, and joint petitioners NADA/SEMA petitioned for reconsideration of the threshold of the lesser of 1.5 percent of GVWR or 100 pounds, seeking a much higher threshold for the amount of weight a dealer could add to a vehicle without having to correct the vehicle placard. The petitioners generally seek to increase the threshold level to the larger of 3 percent of GVWR or 100 kg (220 pounds). AIAM states that the weight of combinations of added equipment could exceed the threshold in the final rule so that in many instances the dealers would have to correct the vehicle placard. AIAM states that NHTSA "presented no data to indicate the existence of a safety concern resulting from the addition of optional equipment for light vehicles generally or at the 100

kg [(220 lb)] level, and we are aware of none."

RVDA highlights what it believes to be a discrepancy in the final rule's discussion in the preamble and the regulatory text of S10.5 of FMVSS No. 120. Although throughout the preamble NHTSA consistently describes the threshold for re-labeling as weight exceeding "the lesser of 1.5 percent of the vehicle's GVWR or 100 pounds" for both FMVSS Nos. 110 and 120, RVDA points out that the regulatory text of the latter standard (S10.5.1 of FMVSS No. 120) refers to the threshold only as "weight exceeding 45.4 kg (100 pounds)."[8] 72 FR at 68464.

RVDA believes that the threshold should be uniform for both standards[9] and that it should be increased to "the greater of 3 percent GVWR or 100 kg (220 pounds)." The petitioner states that setting the threshold at 100 kg (220 lb) would be consistent with 49 CRF 595.7, *Requirements for Vehicle Modifications to Accommodate People with Disabilities.*[10]

NADA/SEMA also petitioned to increase the threshold to "the greater of 3 percent GVWR or 100 kg (220 lb)." The petitioners believe that the agency was mistaken in stating in the final rule that: "Most commenters suggested that the threshold be the lesser of 3 percent GVWR or 100 kg (220 lb)." NADA/SEMA state that it had urged NHTSA to adopt a threshold of "the *greater* of 3 percent GVWR or 100 kg (220 lb), not the *lesser*." (Emphasis in text.) Petitioners state that it had sought "a single minimum safe harbor: 220 lbs. Dealers and installers working on heavier vehicles would be free to calculate potentially higher safe harbors (*e.g.,* 3% of 10,000 pounds or 300 pounds)." The petitioners also state that information contained in AIAM's comment to the NPRM did not support NHTSA's statement in the final rule that trailer hitches weighing 36.3 kg (80 lb) are "the most commonly installed heavy item by dealers prior to first retail sale."

NADA/SEMA state that the 100 lb threshold "provides no meaningful relief" and does not relieve dealers of the responsibility to re-label in the vast majority of equipment sales. The petitioners state that dealers and installers often accessorize vehicles before first sale by "bundling groups of accessories in appearance or towing packages." "[T]hese combinations frequently exceed 100 pounds, but fall below 220 pounds, demonstrating a clear rationale for a minimum 220 pound threshold." The petitioners state that the 100 pound threshold is arbitrary and that it is unaware of any overloading-related safety concerns associated with properly installed accessories. NADA/SEMA believe that the 100 kg (220 lb) threshold from 49 CFR § 595.7 should be used. Petitioners state: "Simply put, if a 220 pound trigger threshold provides a level of safety for persons with disabilities, it should serve well for the motoring public generally."

Agency Response

NHTSA is denying the petitioners' request to amend the weight thresholds of the final rule. Increasing the weight thresholds as petitioners request is inconsistent with safety and the purposes of the rulemaking.

The purpose of the applicability threshold of the load carrying capacity modification label is to relieve dealers and service facilities from having to correct load carrying capacity information when *insignificant* amounts of weight are added to light vehicles and heavy RVs between final vehicle certification and first retail sale. 72 FR at 68452. The threshold is also geared toward ensuring that the load carrying capacity information remains reasonably accurate. That is, NHTSA determined that a safety risk would not be unreasonably heightened if the weight information provided on the original label did not reflect *insignificant* amounts of weight added by the dealer after the vehicle left the factory. As to what constitutes "insignificant" weight, the final rule sought to and provided dealers clear knowledge of what quantity of added weight triggers a requirement to re-label.

It was not the purpose of the amendment to substantially reduce re-labeling of vehicles by dealers when adding weight. The petitioners' complaint that the amendment "provides no meaningful relief" from dealers' responsibility to re-label is immaterial to whether the threshold should be increased. The governing factor for the agency in setting the threshold is whether failure to disclose the added weight on the consumer label withholds important safety information from the vehicle operator. Whether the final rule required dealers to re-label in a vast majority of sales or only in a small portion of sales is not the primary consideration of this rulemaking.

The agency determined that the threshold for added weight of the lesser of 1.5 percent of GVWR or 100 pounds relieves dealers of the responsibility for re-labeling "without creating a practical safety problem." 72 FR at 68452. NHTSA made this determination after considering data from the agency's tire research program showing that fully inflated tires were not very sensitive to "small overloads." *Id.* Petitioners provided no data or information showing that the threshold could be increased—more than doubled[11]—without negatively impacting vehicle handling and tire performance.

The agency cannot agree that the weights suggested by the petitioners are insignificant. NADA/SEMA discussed the Subaru Outback, which has a GVWR of 4,545 pounds with accessories. The petitioners state that a dealer could equip the Subaru with a front license plate (one pound), receiver hitch (43 pounds), cargo organizer (4 pounds), all-weather mats (12 pounds), splash guards (one pound), roof rack (24 pounds), roof bike mount (13 pounds), kayak carrier (11 pounds) and remote starter (3 pounds) for a total of approximately 112 pounds. Under the December 2007 final rule, since the total weight of these dealer-installed accessories would exceed the lesser of 1.5 percent of GVWR or 100 pounds,[12] the dealer modifying the vehicle would have to re-label the vehicle with information that lists the total weight of added equipment. The consumer would use this information to understand how he or she should adjust the load-carrying capacity of the vehicle.

Under the petitioners' view, the threshold should be raised to 220 pounds to relieve the dealer of the burden of re-labeling the vehicle.[13] In our judgment, the dealer should be required to re-label the vehicle. It is noteworthy that the dealer's accessories

[8] The threshold of "the lesser of 1.5 percent of GVWR or 45.4 kg (100 pounds)" is reflected in the text of FMVSS No. 110 (S10.1 of FMVSS No. 110).

[9] We note that FMVSS No. 120's (S10.5) reference to only 45.4 kg (100 kg)—*i.e.,* the absence of "1.5 percent of the vehicle's GVWR"—was intentional. FMVSS No. 120 applies to vehicles with a GVWR greater than 10,000 lb. 1.5 percent of a vehicle with a GVWR of 10,000 lb is 150 lb. Because it would be unnecessary for the threshold clause to state: "the lesser of [150 lb or more] or 100 lb," there was no need to include "1.5 percent of the vehicle's GVWR" in FMVSS No. 120.

[10] Part 595 provides limited exemptions from 49 U.S.C. 30122, the statutory provision prohibiting manufacturers, distributors, dealers, or motor vehicle repair businesses from "knowingly mak[ing] inoperative" any part of a device or element of design installed on or in a motor vehicle in compliance with an FMVSS. Subpart C enables the above-listed entities to modify vehicles to enable persons with disabilities to operate or ride as a passenger in a motor vehicle. Section 595.7(e)(5) states that the modification label required in Section 595.7(b) must "[i]ndicate any reduction in the load carrying capacity of the vehicle of more than 100 kg (220 lb) after the modifications are completed."

[11] 3 percent is double the 1.5 percent of GVWR specified in the final rule.

[12] 1.5 percent of the Outback's GVWR is 68 pounds.

[13] For the Outback, 220 pounds would be more than triple the 68 pound weight triggering the requirement to re-label under the final rule.

highlighted by the petitioners (trailer hitch, roof rack, kayak carrier) are designed to optimize the vehicle's cargo carrying capabilities. With these features, the consumer is encouraged to use the vehicle to carry as much cargo as possible. We believe that it is important to inform a consumer taking full advantage of these accessories that the dealer's accessories alone account for 112 pounds, a substantial amount that will impact the vehicle's overall cargo carrying capacity. The consumer should be made aware of this weight so that he or she will be able to account for it and adjust the amount of cargo or number of passengers eventually carried.

The weight threshold suggested by NADA/SEMA appears to unreasonably increase the risk of overloading for a number of vehicles. NHTSA evaluated a number of vehicles similar to the Outback to determine the effect of added weight when the vehicle is loaded to the limit of its occupant capacity. Taking the example of the Outback (4,545 pounds GVWR, vehicle capacity weight for passengers and cargo of 900 pounds), when the Outback is loaded to its 5-occupant capacity (assuming each passenger weighs 150 pounds), the residual cargo capacity for an unmodified vehicle is 150 pounds. When a dealer adds weight of 112 pounds, the residual cargo capacity is reduced to 38 pounds (150 pounds minus 112 pounds). Applying the December 2007 final rule's 1.5 percent of GVWR limit (or, in the case of the Outback, 68 pounds), the dealer would have to re-label the vehicle. However, if a 220-pound threshold were used, the dealer would not have to inform the consumer of the added weight of the accessories and associated reduced load-carrying capacity of the vehicle. Further, given the 150-pound residual cargo capacity for the Outback, if 220 pounds of accessories were added by the dealer and no re-labeling were required, a vehicle would be overloaded by 70 pounds when loaded to the full occupant capacity (even without an additional cargo load). The load carrying capacity information provided with the original vehicle would be incorrect and fail to inform the consumer of the overloading.

Listed below is information on representative model year 2005–2008 passenger vehicles. Note the cargo capacity remains after the vehicle seats the full number of persons in its seating capacity. It is assumed each person weighs 150 pounds.

Vehicle	GVWR (lb)	Seating capacity	Vehicle capacity weight (lb)	Cargo capacity (with 5 occupants) (lb)
Toyota Yaris	3300	5	845	95
Chevrolet Aveo	3348	5	858	108
Toyota Corolla	3585	5	850	100
Saturn Ion	3664	5	899	149
Honda Civic	3671	5	850	100
Ford Fusion	4240	5	850	100
Hyundai Sonata	4299	5	860	110
Ford FiveHundred	4800	5	950	200

A 220 pound threshold would result in the vehicles exceeding their GVWR when full passenger capacity weight is added even without an additional cargo load. With a 220 pound threshold, without the consumer knowing it, a vehicle could be overloaded simply by carrying the maximum number of occupants for which the vehicle is designed, even if no cargo were carried. Such an outcome is contrary to safety and contrary to the purpose of this rulemaking.

2. 49 CFR 595.7

With regard to petitioners' view that the 220 pound threshold should be acceptable since it is used in 49 CFR 595.7, we disagree.

NHTSA established 49 CFR part 595, subpart C, to assist persons with disabilities to operate or ride as passengers in motor vehicles. The regulation permits, to a carefully-regulated extent, the making inoperative of devices or systems installed in compliance with the Federal motor vehicle safety standards. In issuing this regulation, the agency weighed carefully and sought balance between the interests of increasing the mobility of the disabled with the safety protections afforded by FMVSSs that could not be maintained by the modifications needed to accommodate a disabled person. The agency recognized that some components that are the subjects of specific FMVSSs (such as steering columns, air bags, and seats) might have to be removed. Unlike the components new passenger vehicle dealers sometimes add on to new vehicles, the modifications envisioned by the § 595.7 regulation are usually substantial and involve a degree of reconstruction of the vehicle. Because the purpose and nature of the modifications contemplated by § 595.7 and FMVSS No. 110 and 120 are different, the weight thresholds are different.

The type of vehicle that is typically modified and how it is used after modification are different. Vehicles modified (in accordance with § 595.7) to accommodate operators or passengers with disabilities have historically been full-size vans and mini-vans with GVWRs of between 6,000 pounds and 9,000 pounds and a vehicle capacity weight between 1,000 pounds and 2,500 pounds. After modifications, these vehicles are unlikely to be used to haul heavy cargo or large numbers of passengers because of their special use. Thus, it is less likely that the vehicle's load-carrying capacity will be overloaded by a modifier's addition of weight less than 100 kg (220 lb).

Although there are differences between § 595.7 and FMVSS Nos. 110 and 120 that account for different weight thresholds, we note that the end result is similar: The modifications of the vehicle typically result in a re-labeling of the vehicle. Modifications made to accommodate the needs of handicapped drivers or passengers usually exceed 100 kg (220 lb). The § 595.7 modifications needed to accommodate operators and passengers with disabilities include the addition of platform lifts, door operators, floor, roof, and seat modifications, and hand controls. Generally, these modifications are designed to accommodate a particular person's needs. Some extensive modifications can add up to 700 pounds to the unloaded vehicle weight of the vehicle. Thus, modifiers have had to label the vehicle with the

modification label required in § 595.7(b) indicating the reduction in the load carrying capacity of the vehicle of more than 100 kg (220 lb). It is also noted that Part 595 applies to used vehicles as well as new vehicles.

For the reasons discussed above, we deny the requests to change the maximum threshold values to that of 49 CFR 595.7.

3. Use of a Single Weight Threshold Only, Not Percentage of GVWR

To reduce the threshold weight calculation errors that could result from the requirement that the threshold value for added weight be assigned as a percentage of the GVWR (such as that specified in the December 2007 final rule of 1.5 percent), RVDA and AIAM recommended that NHTSA require a single value for the threshold weight be used for all light vehicles.

We decline to make this change. NHTSA does not agree that a single value of threshold weight would be appropriate for all FMVSS No. 110 vehicles. While a larger vehicle could accommodate additional weight up to the fixed value threshold without adjusting its vehicle capacity weight, for lighter vehicles, adding the same fixed threshold weight value without adjusting the vehicle capacity weight label, could result in significant overload. The vehicles [14] we evaluated did not have the capacity to accommodate additional weight over the 100 pound threshold without being overloaded at vehicle capacity weight.

NHTSA believes dealers will be able to calculate the weight limits correctly. As a practical matter, vehicles with a GVWR of 6,600 pounds or less are guided by the 1.5 percent of GVWR limit[15] and vehicles with a GVWR above 6,600 pounds are limited to 100 pounds of additional weight. Calculating the weight limit of a vehicle (GVWR times 0.015) is straightforward and uncomplicated.

d. Applying FMVSS No. 110 Re-Labeling Requirements Only to Alterers

As discussed above, S10 of FMVSS No. 110, addressing weight added to a vehicle between final vehicle certification and first retail sale, specifies that if weight exceeding a threshold amount is added to a vehicle prior to first retail sale, a vehicle placard (required generally for all vehicle by S4.3) and cargo carrying capacity labels must be corrected. FMVSS No. 110, at S4.3.2, specifies for "altered vehicles" that a new vehicle placard be affixed to an altered vehicle, before first purchase of the vehicle, containing accurate information.

In 49 CFR 567.3, "alterer" is defined as a person who alters by addition, substitution or removal of components (other than readily attachable components) a certified vehicle before the first purchase of the vehicle other than for resale. Additionally, an "altered vehicle" is a completed previously-certified vehicle that has been altered other than by the addition, substitution, or removal of readily attachable components or by minor finishing operations, "in such a manner as may affect the conformity of the vehicle with one or more [FMVSSs] or the validity of the stated weight ratings or vehicle type classification." *Id.*

In their petition for reconsideration, NADA/SEMA petitioned NHTSA to amend S10 of FMVSS No. 110 to make it applicable only to vehicle "alterers". Petitioners ask that S10.1 be revised to state only that the placard required by S4.3.2 or S4.3.5 would have to be corrected. The petitioners believed that only vehicle alterers should be required to correct vehicle capacity weight information. Under petitioners' view, vehicle dealers who would not be considered alterers could add weight in excess of the weight threshold (the lesser of 1.5 percent of GVWR or 100 pounds) and not be required to correct the labeled vehicle capacity weight numbers.

Agency Response

We deny this request. The new requirements in FMVSS No. 110 at S10 and in FMVSS No. 120 at S10.5 are intended to apply to all regulated entities, including dealers and alterers, who add weight to applicable vehicles in excess of the specified thresholds (lesser of 100 pounds or 1.5 percent of GVWR) prior to first retail sale. Alterers make changes to vehicles that affect the vehicle to a greater extent than by adding, deleting, or changing readily attachable components, and must be held responsible for correcting vehicle labels as appropriate. At the same time, other regulated entities and dealers, who increase weight by adding "readily attachable components," must be responsible for correcting vehicle capacity weight information if the added weight is above the stated threshold.

The petitioners gave no safety rationale for their request to limit re-labeling requirements to alterers. To amend FMVSS No. 110 in the way the petitioners request would undercut the entire reason for the rulemaking that resulted in the December 4, 2007 final rule. For these reasons, the changes to FMVSS No. 110 asked for by the petitioners will not be made.

e. Issues Outside the Scope of Rulemaking

The following issues raised by NADA/SEMA and by Mr. Myhre are outside the scope of rulemaking of the December 4, 2007 final rule.

1. Dealers Changing Tire Placard

NADA/SEMA ask NHTSA to "restore the version of 49 CFR § 571.110 S4.3(d) published in 2002." This issue relates to previous rulemakings, starting with a November 2002 final rule that amended FMVSS No. 110 to specify that the tire size listed on the vehicle placard match the tire size installed as original equipment by the vehicle manufacturer. The November 2002 FMVSS No. 110 final rule, at S4.3(d), did not address the possibility that tires could be changed between vehicle certification and first sale to the retail customer. A June 2004 FMVSS No. 110 final rule requirement addressed the possibility of tire change by not permitting the tire size to be changed between manufacturer certification and first sale without changing the vehicle placard. In the 2004 FMVSS No. 110 final rule, we explained that dealers are not permitted to sell non-complying vehicles or take actions which would take a vehicle out of compliance with any applicable FMVSSs. Therefore, if a dealer substitutes tires in such a way that the placard is no longer accurate, the dealer must affix a new vehicle placard.

In the December 4, 2007 final rule on cargo carrying capacity, we noted that some commenters to the NPRM had re-raised old issues related to the previous tire placarding rulemakings. (*See* 72 FR at 68457.) Those comments were raising issues outside the scope of the rulemaking. In its petition for reconsideration, NADA/SEMA again commented on these issues. Since the issue is outside of the scope of the rulemaking at issue, we will not address the matter here.

2. Load Distribution

Mr. Myhre stated that for proper braking and steering control of any vehicle, consumers should be provided information about the distribution of the unloaded weight. He suggests requiring that the vehicle capacity weight at each corner of the motorhome be provided.

[14] The Toyota Yaris, Chevrolet Aveo, Toyota Corolla, Saturn Ion, Honda Civic, Ford Fusion, Hyndai Sonata, and Ford Five Hundred.

[15] 1.5 percent of 6,600 is calculated by multiplying 6,600 by 0.015, which results in 99.

Agency Response

This issue is outside the scope of the rulemaking, as noted in the final rule.[16] In the final rule, NHTSA stated that the rulemaking is intended to inform consumers of the load carrying capacity of the RV they are about to purchase and to remind them of the RV's load carrying capacity after purchase and during use. The agency recognized that the rule did not address requirements for providing information on how a particular vehicle's loads should be distributed.

The agency will continue to review consumer complaints and crash statistics to determine the extent of the RV load distribution problem, both motor homes and trailers. If appropriate, the agency will initiate projects to provide consumers with additional vehicle load distribution information. As NHTSA stated in the final rule, however, manufacturers are urged to provide consumers with as much guidance as possible in the vehicle's owner's manual relative to the proper distribution of cargo loads.[17]

III. Conclusion

For the reasons discussed above, NHTSA has denied the petitions for reconsideration. Today's document makes no changes to the regulatory text of the December 4, 2007 final rule.

Issued on April 23, 2010.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 2010–9981 Filed 4–28–10; 8:45 am]

BILLING CODE 4910–59–P

[16] *See* 72 FR at 68457.

[17] *Id.*

Proposed Rules

Federal Register
Vol. 75, No. 82
Thursday, April 29, 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.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Parts 2425 and 2429

Review of Arbitration Awards; Miscellaneous and General Requirements

AGENCY: Federal Labor Relations Authority.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Chairman and Members of the Federal Labor Relations Authority (the Authority) seek public comment on proposed revisions to its regulations concerning review of arbitration awards and the Authority's miscellaneous and general requirements to the extent that they set forth procedural rules that apply to the review of arbitration awards. The purpose of the proposed revisions is to improve and expedite review of such awards.

DATES: Comments must be received on or before June 1, 2010.

ADDRESSES: E-mail written comments to *engagetheflra@flra.gov*, or deliver written comments to the Chief, Case Intake and Publication Office, Federal Labor Relations Authority, Suite 200, 1400 K Street, NW., Washington, DC 20424–0001.

FOR FURTHER INFORMATION CONTACT: Sarah Whittle Spooner, Counsel for Regulatory and External Affairs, (202) 218–7791.

SUPPLEMENTARY INFORMATION: The Chairman and Members of the Authority established an internal workgroup to study and evaluate the policies and procedures in effect concerning the review of arbitration awards. In order to solicit the input of arbitrators and practitioners, the workgroup held several focus groups, specifically: One focus group in Washington, DC with arbitrators; two focus groups in Washington, DC with practitioners; and focus groups in Chicago, Illinois and Oakland, California with both arbitrators and practitioners. In addition, through a survey, the Authority solicited input from parties to recent Authority decisions; the Authority also solicited general input through *engagetheflra@flra.gov*.

The proposed revisions are intended to improve and expedite the review of arbitration awards. The proposed revisions include:

- Changing the Authority's existing practice for calculating the date for filing timely exceptions, so that the thirty-day period begins on the day after, not the day of, service of the arbitration award;
- Clarifying how the date of service of an arbitrator's award is determined;
- Clarifying the information and documents that must be filed with exceptions and oppositions;
- Clarifying existing grounds for review of an arbitration award and the consequence of failing to raise an existing ground;
- Adding an option to request an expedited decision from the Authority in certain arbitration cases that do not involve unfair labor practices;
- Adding an option to request voluntary alternative dispute resolution services;
- Providing various methods of resolving unclear disputes or records; and
- Clarifying the issues that must be raised before an arbitrator in order to be considered by the Authority.

The Authority reproduces proposed 5 CFR part 2425 in its entirety, and amends 5 CFR 2429.5, 2429.21 and 2429.22. Sectional analyses of the proposed regulations are as follows.

Part 2425—Review of Arbitration Awards

Section 2425.1. Establishes October 1, 2010, as the effective date of the revised regulations.

Section 2425.2. Establishes who may file exceptions, the time limits for filing exceptions, and rules for determining the date of service of the arbitration award. It also refers to the procedural and other requirements for filing exceptions that are set forth in 5 CFR part 2429.

Section 2425.3. Establishes who may file an opposition to arbitration exceptions, as well as the time limits for filing an opposition. It also refers to the procedural and other requirements for filing an opposition that are set forth in 5 CFR part 2429.

Section 2425.4. Specifies the information and documentation to be filed with exceptions, and provides for the optional use of an Authority-provided form.

Section 2425.5. Specifies the information and documentation to be filed with oppositions to exceptions, and provides for the optional use of an Authority-provided form.

Section 2425.6. Establishes grounds on which the Authority may review an arbitration award, including the private-sector grounds that the Authority currently recognizes as well as a statement that a party may raise additional private-sector grounds if those grounds are supported.

- Lists the types of arbitration awards over which the Authority lacks jurisdiction.
- Provides for dismissal of exceptions that fail to raise and support an established ground or involve an award over which the Authority lacks jurisdiction.

Section 2425.7. Permits parties to jointly request an expedited, short-form Authority decision in arbitration matters that do not involve unfair labor practices.

Section 2425.8. Permits parties to jointly request assistance from the Authority's Collaboration and Alternative Dispute Resolution Program.

Section 2425.9. Provides that, when necessary, the Authority may, among other things, direct parties to provide documentary evidence, respond to requests for further information, or meet with the Authority or its representative(s).

Section 2425.10. Renumbers current § 2425.4.

Part 2429—Miscellaneous and General Requirements

Amends three existing sections of part 2429, specifically:

- § 2429.5 to clarify the types of matters that parties are required to raise in proceedings before the Regional Director, Hearing Officer, Administrative Law Judge, or arbitrator;
- § 2429.21 to delete the reference to exceptions to arbitration awards being exempt from the general rules regarding calculating filing periods; and
- § 2429.22 to specify that the rules set forth in that section are subject to the rules established in proposed new rule § 2425.2.

Executive Order 12866

The Authority is an independent regulatory agency, and as such, is not subject to the requirements of E.O. 12866.

Executive Order 13132

The Authority is an independent regulatory agency, and as such, is not subject to the requirements of E.O. 13132.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Authority has determined that this regulation, as amended, will not have a significant impact on a substantial number of small entities, because this rule applies only to Federal employees, Federal agencies, and labor organizations representing Federal employees.

Unfunded Mandates Reform Act of 1995

This rule change will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This action is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act of 1995

The amended regulations contain no additional information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*

List of Subjects in 5 CFR Parts 2425 and 2429

Administrative practice and procedure, Government employees, Labor management relations.

For the reasons stated in the preamble, the Authority proposes to amend 5 CFR chapter XIV as follows:

1. Revise part 2425 to read as follows:

PART 2425—REVIEW OF ARBITRATION AWARDS

Sec.

Authority: 5 U.S.C. 7134.

§ 2425.1 Applicability of this part.

This part is applicable to all arbitration cases in which exceptions are filed with the Authority, pursuant to 5 U.S.C. 7122, on or after October 1, 2010.

§ 2425.2 Exceptions—who may file; time limits for filing, including determining date of service of arbitration award for the purpose of calculating time limits; procedural and other requirements for filing.

(a) *Who may file.* Either party to arbitration under the provisions of chapter 71 of title 5 of the United States Code may file an exception to an arbitrator's award rendered pursuant to the arbitration.

(b) *Timeliness requirements—general.* The time limit for filing an exception to an arbitration award is thirty (30) days. This thirty (30)-day time limit may not be extended or waived. In computing the thirty (30)-day period, the first day counted is the day after, not the day of, service of the arbitration award. Example: If an award is served on May 1, then May 2 is counted as day 1, and May 31 is day 30; an exception filed on May 31 would be timely, and an exception filed on June 1 would be untimely. In order to determine the date of service of the award, see the rules set forth in paragraph (c) of this section, and for additional rules regarding computing the filing date, see 5 CFR 2429.21 and 2429.22.

(c) *Methods of service of arbitration award; determining date of service of arbitration award for purposes of calculating time limits for exceptions.* If the parties have reached an agreement as to what is an appropriate method(s) of service of the arbitration award, then that agreement—whether expressed in a collective bargaining agreement or otherwise—is controlling for purposes of calculating the time limit for filing exceptions. If the parties have not reached such an agreement, then the arbitrator may use any commonly used method—including, but not limited to, electronic mail (hereinafter "e-mail"), facsimile transmission (hereinafter "fax"), regular mail, commercial delivery, or personal delivery—and the arbitrator's selected method is controlling for purposes of calculating the time limit for filing exceptions. The following rules apply to determine the date of service for purposes of calculating the time limits for filing exceptions, and assume that the method(s) of service discussed are either consistent with the parties' agreement or chosen by the arbitrator absent such an agreement:

(1) If the award is served by regular mail, then the date of service is the postmark date, and the excepting party will receive an additional five days for filing the exceptions under 5 CFR 2492.22.

(2) If the award is served by commercial delivery, then the date of service is the date on which the award was deposited with the commercial delivery service, and the excepting party will receive an additional five days for filing the exceptions under 5 CFR 2429.22.

(3) If the award is served by e-mail or fax, then the date of service is the date of transmission, and the excepting party will not receive an additional five days for filing the exceptions.

(4) If the award is served by personal delivery, then the date of personal delivery is the date of service, and the excepting party will not receive an additional five days for filing the exceptions.

(5) If the award is served by more than one method, then the first method of service is controlling when determining the date of service for purposes of calculating the time limits for filing exceptions. However, if the award is served by e-mail, fax, or personal delivery on one day, and by mail or commercial delivery on the same day, the excepting party will not receive an additional five days for filing the exceptions, even if the award was postmarked or deposited with the commercial delivery service before the e-mail or fax was transmitted.

(d) *Procedural and other requirements for filing.* Exceptions must comply with

the requirements set forth in 5 CFR 2429.24 (Place and method of filing; acknowledgment), 2429.25 (Number of copies and paper size), 2429.27 (Service; statement of service), and 2429.29 (Content of filings).

§ 2425.3 Oppositions—who may file; time limits for filing; procedural and other requirements for filing.

(a) *Who may file.* Any party to arbitration under the provisions of chapter 71 of title 5 of the United States Code may file an opposition to an exception that has been filed under § 2425.2 of this part.

(b) *Timeliness requirements.* Any opposition must be filed within thirty (30) days after the date the exception is served on the opposing party. For additional rules regarding computing the filing date, see 5 CFR 2425.8, 2429.21, and 2429.22.

(c) *Procedural requirements.* Oppositions must comply with the requirements set forth in 5 CFR 2429.24 (Place and method of filing; acknowledgment), 2429.25 (Number of copies and paper size), 2429.27 (Service; statement of service), and 2429.29 (Content of filings).

§ 2425.4 Content and format of exceptions.

(a) *What is required.* An exception must be dated, self-contained, and set forth in full:

(1) A statement of the grounds on which review is requested, as discussed in § 2425.6 of this part;

(2) Arguments in support of the stated grounds, including specific references to the record, citations of authorities, and any other relevant documentation;

(3) Legible copies of any documents referenced in the arguments discussed in paragraph (a)(2) of this section, except as provided in paragraph (b) of this section;

(4) A legible copy of the award of the arbitrator; and

(5) The arbitrator's name, mailing address, and, if available and authorized for use by the arbitrator, the arbitrator's e-mail address or facsimile number.

(b) *What is not required.* Notwithstanding paragraph (a)(3) of this section, exceptions are not required to include actual copies of documents that are readily accessible to the Authority, such as Authority decisions, decisions of Federal courts, current provisions of the United States Code, and current provisions of the Code of Federal Regulations.

(c) *What is prohibited.* Consistent with 5 CFR 2429.5, an exception may not rely on any material evidence, factual assertions, arguments (including affirmative defenses), requested remedies, or challenges to an awarded remedy that could have been, but were not, presented to the arbitrator.

(d) *Format.* The exception may be filed on an optional form provided by the Authority, or in any other format that is consistent with paragraphs (a) and (c) of this section. A party's failure to use, or properly fill out, an Authority-provided form will not, by itself, provide a basis for dismissing an exception.

§ 2425.5 Content and format of opposition.

If a party chooses to file an opposition, then the party should address any assertions from the exceptions that the opposing party disputes, including any assertions that any material evidence, factual assertions, arguments (including affirmative defenses), requested remedies, or challenges to an awarded remedy were raised before the arbitrator. The party filing the opposition must provide copies of any documents upon which it relies unless the documents were provided with the exceptions. The opposition may be filed on an optional form provided by the Authority, or in any other format that is consistent with this section. A party's failure to use, or properly fill out, an Authority-provided form will not, by itself, provide a basis for dismissing an opposition.

§ 2425.6 Grounds for review; potential dismissal for failure to raise grounds.

(a) The Authority will review an arbitrator's award to which an exception has been filed to determine whether the award is deficient—

(1) Because it is contrary to any law, rule or regulation; or

(2) On other grounds similar to those applied by Federal courts in private sector labor-management relations.

(b) If a party argues that an award is deficient on private-sector grounds under paragraph (a)(2) of this section, then the excepting party must explain how, under standards set forth in the decisional law of the Authority or Federal courts:

(1) The arbitrator:

(i) Exceeded his or her authority; or

(ii) Was biased; or

(iii) Denied the excepting party a fair hearing; or

(2) The award:

(i) Fails to draw its essence from the parties' collective bargaining agreement; or

(ii) Is based on a nonfact; or

(iii) Is incomplete, ambiguous, or contradictory; or

(iv) Is contrary to public policy; or

(v) Is deficient on the basis of a private-sector ground not listed in paragraphs (b)(1)(i) through (iv) of this section.

(c) If a party argues that the award is deficient on a private-sector ground raised under paragraph (b)(2)(v) of this section, the party must provide sufficient citation to legal authority that establishes the grounds upon which the party filed its exceptions.

(d) The Authority does not have jurisdiction over an award relating to:

(1) An action based on unacceptable performance covered under 5 U.S.C. 4303;

(2) A removal, suspension for more than fourteen (14) days, reduction in grade, reduction in pay, or furlough of thirty (30) days or less covered under 5 U.S.C. 7512; or

(3) Matters similar to those covered under 5 U.S.C. 4303 and 5 U.S.C. 7512 which arise under other personnel systems.

(e) An exception may be subject to dismissal if:

(1) The excepting party fails to raise and support a ground as required in paragraphs (a) through (c) of this section, or otherwise fails to demonstrate a legally recognized basis for setting aside the award; or

(2) The exception concerns an award described in paragraph (d) of this section.

§ 2425.7 Requests for expedited, short-form decisions in certain arbitration matters that do not involve unfair labor practices.

Where an arbitration matter before the Authority does not involve allegations of unfair labor practices under 5 U.S.C. 7116, and the parties wish to receive an expedited Authority decision, the parties may jointly request the Authority to issue a decision (hereinafter a "short-form decision") that briefly resolves the parties' arguments without a full explanation of the background, arbitration award, parties' arguments, and analysis of those arguments. Such request must be signed by the designated representative of each party and filed by either party with the Authority within thirty (30) days after the exception is filed. In determining whether a short-form decision is appropriate, the Authority will consider all of the circumstances of the case, including, but not limited to, its complexity, potential for precedential value, and similarity to other, fully detailed decisions involving the same or similar issues. Even absent the parties' joint request, the Authority may issue short-form decisions in appropriate cases.

§ 2425.8 Collaboration and Alternative Dispute Resolution Program.

The parties may request assistance from the Collaboration and Alternative Dispute Resolution Program (CADR) to attempt to resolve the dispute before or after an opposition is filed. Upon request, and as agreed to by the parties, CADR representatives will attempt to assist the parties to resolve these disputes. If the parties have agreed to CADR assistance, and the time for filing an opposition has not expired, then the Authority will toll the time limit for filing an opposition until the CADR process is completed. Parties seeking information or assistance under this part may call or write the CADR Office at 1400 K Street NW., Washington, DC, 20424. A brief summary of CADR activities is available on the Internet at *http://www.flra.gov*.

§ 2425.9 Means of clarifying records or disputes.

When required to clarify a record or when it would otherwise aid in disposition of the matter, the Authority, or its designated representative, may, as appropriate:

(a) Direct the parties to provide specific documentary evidence, including the arbitration record as discussed in 5 CFR 2429.3;

(b) Direct the parties to respond to requests for further information;

(c) Meet with parties, either in person or via telephone or other electronic communications systems, to attempt to clarify the dispute or matters in the record;

(d) Direct the parties to provide oral argument; or

(e) Take any other appropriate action.

§ 2425.10 Authority decision.

The Authority shall issue its decision and order taking such action and making such recommendations concerning the award as it considers necessary, consistent with applicable laws, rules, or regulations.

PART 2429—MISCELLANEOUS AND GENERAL REQUIREMENTS

2. The authority citation for part 2429 continues to read as follows:

Authority: 5 U.S.C. 7134; § 2429.18 also issued under 28 U.S.C. 2122(a).

3. Revise § 2429.5 to read as follows:

§ 2429.5 Matters not previously presented; official notice.

The Authority will not consider any material evidence, factual assertions, arguments (including affirmative defenses), requested remedies, or challenges to an awarded remedy that could have been, but were not, presented in the proceedings before the Regional Director, Hearing Officer, Administrative Law Judge, or arbitrator. The Authority may, however, take official notice of such matters as would be proper.

4. In § 2429.21, revise paragraph (a) to read as follows:

§ 2429.21 Computation of time for filing papers.

(a) In computing any period of time prescribed by or allowed by this subchapter, except in agreement bar situations described in § 2422.12(c), (d), (e), and (f) of this subchapter, the day of the act, event, or default from or after which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or a Federal legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or a Federal legal holiday. *Provided, however,* in agreement bar situations described in § 2422.12(c), (d), (e), and (f), if the 60th day prior to the expiration date of an agreement falls on a Saturday, Sunday, or a Federal legal holiday, a petition, to be timely, must be filed by the close of business on the last official workday preceding the 60th day. When the period of time prescribed or allowed is 7 days or less, intermediate Saturdays, Sundays, and Federal legal holidays shall be excluded from the computations.

* * * * *

5. Revise § 2429.22 to read as follows:

§ 2429.22 Additional time after service by mail or commercial delivery.

Except as to the filing of an application for review of a Regional Director's Decision and Order under § 2422.31 of this subchapter, and subject to the rules set forth in § 2425.2 of this subchapter, whenever a party has the right or is required to do some act pursuant to this subchapter within a prescribed period after service of a notice or other paper upon such party, and the notice or paper is served on such party by mail or commercial delivery, 5 days shall be added to the proscribed period: Provided, however, that 5 days shall not be added in any instance where an extension of time has been granted.

Dated: April 26, 2010.

Carol Waller Pope,

Chairman.

[FR Doc. 2010–9996 Filed 4–28–10; 8:45 am]

BILLING CODE 6727–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0457; Directorate Identifier 2010–CE–019–AD]

RIN 2120–AA64

Airworthiness Directives; Aircraft Industries a.s. Model L 23 Super Blanik Gliders

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

ACTION: Notice of proposed rulemaking (NPRM).

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

Cracks on the stabilizer elevator inner hinges of seven L 23 SUPERBLANÍK sailplanes have been detected during an inspection.

This condition, if not corrected, could result in no longer retaining the elevator in place and in jamming of the Pilot´s elevator control system, and subsequent loss of elevator control.

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

DATES: We must receive comments on this proposed AD by June 14, 2010.

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9

a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0457; Directorate Identifier 2010–CE–019–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

On March 29, 2010, we issued AD 2010–08–01, Amendment 39–16256 (75 FR 17295; April 6, 2010). That AD required actions intended to address an unsafe condition on the products listed above.

AD 2010–08–01, was issued as an interim action in order to address the need for the immediate inspection of the elevator inner hinges on the stabilizer.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Emergency AD No.: 2010–0037–E, dated March 8, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products.

The EASA AD allows for repetitively inspecting the elevator inner hinges on the stabilizer for cracks or damage at intervals not to exceed every 1,000 hours time-in-service (TIS), and, if you find any elevator inner hinge on the elevator is cracked or damaged, before further flight, replacing it.

The Administrative Procedure Act does not permit the FAA to "bootstrap" a long-term requirement into an urgent safety of flight action where the rule becomes effective at the same time the public has the opportunity to comment. The short-term action and the long-term action were analyzed separately for justification to bypass prior public notice.

We are issuing this proposed AD to address the requirement that you repetitively inspect the elevator inner hinges on the stabilizer at intervals not to exceed every 1,000 hours TIS.

Relevant Service Information

Aircraft Industries a.s. has issued Mandatory Bulletin MB No.: L23/052a, dated March 2, 2010. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this proposed AD will affect 103 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $17,510, or $170 per product.

In addition, we estimate that any necessary follow-on actions would take about 4 work-hours and require parts costing $500, for a cost of $840 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–16256 (75 FR 17295; April 6, 2010), and adding the following new AD:

Aircraft Industries a.s.: Docket No. FAA–2010–0457; Directorate Identifier 2010–CE–019–AD.

Comments Due Date

(a) We must receive comments by June 14, 2010.

Affected ADs

(b) This AD supersedes AD 2010–08–01, Amendment 39–16256.

Applicability

(c) This AD applies to Model L 23 Super Blanik Gliders, all serial numbers, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 55: Stabilizers.

Reason

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

Cracks on the stabilizer elevator inner hinges of seven L 23 SUPERBLANÍK sailplanes have been detected during an inspection.

This condition, if not corrected, could result in no longer retaining the elevator in place and in jamming of the Pilot's elevator control system, and subsequent loss of elevator control.

For the reasons stated above, this Emergency AD requires the inspection of the elevator inner hinges, and the accomplishment of the relevant corrective actions as necessary.

Actions and Compliance

(f) Unless already done, do the following actions:

(1) Before further flight as of April 6, 2010 (the effective date of AD 2010–08–01), inspect the elevator inner hinges on the stabilizer in accordance with paragraphs A.1., A.2. and A.4. of Aircraft Industries, a.s. Mandatory Bulletin MB No.: L23/052a, dated March 2, 2010.

(2) Repetitively inspect thereafter the elevator inner hinges on the stabilizer in accordance with paragraphs A.1., A.2. and A.4. of Aircraft Industries, a.s. Mandatory Bulletin MB No.: L23/052a, dated March 2, 2010, at intervals not to exceed every 1,000 hours time-in-service.

(3) If, as a result of the inspection required by paragraph (f)(1) or (f)(2) of this AD, you find any elevator inner hinge on the elevator is cracked or damaged, before further flight, replace it in accordance with paragraphs A.3. and A.4. of Aircraft Industries, a.s. Mandatory Bulletin MB No.: L23/052a, dated March 2, 2010.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI EASA Emergency AD No.: 2010–0037–E, dated March 8, 2010; and Aircraft Industries, a.s. Mandatory Bulletin MB No.: L23/052a, dated March 2, 2010, for related information.

Issued in Kansas City, Missouri, on April 22, 2010.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–9951 Filed 4–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–0257]

RIN 1625–AA00

Safety Zone; Private Fireworks, Wilson Creek, Gloucester, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes establishing a safety zone on Wilson Creek in the vicinity of Gloucester, VA in support of a private fireworks event. This action is intended to restrict vessel traffic movement on Wilson Creek to protect mariners from the hazards associated with fireworks displays.

DATES: Comments and related material must be received by the Coast Guard on or before June 1, 2010.

ADDRESSES: You may submit comments identified by docket number USCG–2010–0257 using any one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- *Fax:* 202–493–2251.
- *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.
- *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. *See* the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail LT Tiffany Duffy, Chief Waterways Management Division, Sector Hampton Roads, Coast Guard; telephone (757) 668–5580, e-mail *Tiffany.A.Duffy@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting

comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2010–0257), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *http://www.regulations.gov*) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "USCG–2010–0257" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG–2010–0257" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact Lieutenant Tiffany Duffy, Chief Waterways Management Division, Sector Hampton Roads at the telephone number or e-mail address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Background and Purpose

On July 3, 2010 Blair Farinholt will sponsor a fireworks display on Wilson Creek. Due to the need to protect mariners and spectators from the hazards associated with the fireworks display, access to Wilson Creek within 420 feet of the fireworks display will be temporarily restricted.

Discussion of Proposed Rule

The Coast Guard proposes establishing a safety zone on specified waters of Wilson Creek in the vicinity of Gloucester, Virginia. This safety zone will encompass all navigable waters within 420 feet of the fireworks display located at position 37°21′49″ N/076°28′51″ W (NAD 1983). This regulated area will be established in the interest of public safety during a private fireworks event and will be enforced from 9 p.m. to 10 p.m. on July 3, 2010. Access to the safety zone will be restricted during the specified date and times. Except for participants and vessels authorized by the Captain of the Port or his Representative, no person or vessel may enter or remain in the regulated area.

The Coast Guard expects the temporary final rule will be effective less than 30 days after publication in the **Federal Register** because delaying the effective date would be contrary to the public interest due to the need to protect the public from the dangers associated with fireworks events.

Regulatory Analyses

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

Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. Although this proposed regulation restricts access to the safety zone, the effect of this rule will not be significant because: (i) The safety zone will be in effect for a limited duration; (ii) the zone is of limited size; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities because the zone will only be in place for a limited duration and maritime advisories will be issued allowing the mariners to adjust their plans accordingly. However, this rule may affect the following entities, some of which may be small entities: The owners and operators of vessels intending to transit or anchor in that portion of Wilson Creek from 9 p.m. to 10 p.m. on July 3, 2010.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Tiffany Duffy, Chief, Waterways Management Division, Sector Hampton Roads at (757) 668–5580. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**. This proposed rule involves establishing a safety zone around a fireworks display. The fireworks are launched from a barge and the safety zone is intended to keep mariners away from any fall out that may enter in the water. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add § 165.T05–0257 to read as follows:

§ 165.T05–0257 Safety Zone; Private Fireworks, Wilson Creek, Gloucester, VA.

(a) *Regulated area.* The following area is a safety zone: Specified waters of Wilson Creek located within a 420 foot radius of the fireworks display at approximate position 37°21′49″ N/

076°28′51″ W (NAD 1983) in the vicinity of Gloucester, VA.

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

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

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

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

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

(3) The Captain of the Port, Hampton Roads can be reached through the Sector Duty Officer at Sector Hampton Roads in Portsmouth, Virginia at telephone Number (757) 668–5555.

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

(d) *Effective period.* This regulation will be effective on July 3, 2010 from 9 p.m. until 10 p.m.

Dated: April 15, 2010.

M.S. Ogle,

Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads.

[FR Doc. 2010–9846 Filed 4–28–10; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2009–0746; FRL–9143–3]

RIN 2060–AP91

Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period.

SUMMARY: On March 30, 2010, the EPA published a proposed rule to amend the rule governing case-by-case emission limits for major sources of hazardous air pollutants under section 112(j) of the Clean Air Act. We are announcing an extension of the public comment period to May 27, 2010.

DATES: Submit comments on or before May 27, 2010.

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID No. EPA EPA–HQ–OAR–2009–0746, 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) 566–1741.
- *Mail:* Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies. EPA requests a separate copy also be sent to the contact person identified below (*see* **FOR FURTHER INFORMATION CONTACT**). In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Desk Officer for EPA, 725 17th St. NW., Washington, DC 20503.
- *Hand Delivery:* Air and Radiation Docket and Information Center, U.S. EPA, Room B102, 1301 Constitution Avenue, NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2009–0746. EPA's policy is that all comments received will be included in the public 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 *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://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 *http://www.regulations.gov* or in hardcopy at the Air and Radiation Docket EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue., 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 Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Colyer, Program Design Group, Sectors Policies and Programs Division (D205–02), U.S. EPA, Research Triangle Park, North Carolina 27711; telephone number (919) 541–5262; facsimile number (919) 541–5600; electronic mail address *colyer.rick@epa.gov.*

SUPPLEMENTARY INFORMATION: This document extends the public comment period established in the **Federal Register** issued on March 30, 2010, when EPA published a proposed rule (75 FR 15655) amending the Section 112(j) rule (40 CFR part 63, subpart B). The amendments would streamline certain aspects of the Section 112(j) rule and clarify the process in the case of a complete rule vacatur. Several parties requested that EPA extend the comment period. EPA has granted this request and is extending the comment period to May 27, 2010. To submit comments, or access the official public docket, please follow the detailed instructions as provided in the **SUPPLEMENTARY INFORMATION** section of the March 30, 2010 (75 FR 15655) **Federal Register**

document. If you have questions, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous Air Pollutants, Reporting and Recordkeeping requirements.

Dated: April 26, 2010.

Gina McCarthy,

Assistant Administrator.

[FR Doc. 2010–9988 Filed 4–28–10; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 75, No. 82
Thursday, April 29, 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

April 23, 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: Rural Development Consolidated Programs—ARRA Funding.

OMB Control Number: 0575–0194.

Summary of Collection: The Rural Development (RD) agency programs were awarded funding under the American Recovery and Reinvestment Act of 2009 (Recovery Act). The agencies provide grants, loans and loan guarantee assistance to rural residents, rural communities, and rural utility systems. Rural Housing Service, Rural Utilities Service and Rural Business Service are authorized under the Consolidated Farm and Rural Development Act, Sections 306; 1926 and 310B and the Housing Act of 1949, as amended, to collect this information.

Need and Use of the Information: The eligibility criterion for each program differs widely. RD will collect information from the impacted programs, "Water and Waste Loan and Grant Program;" "Rural Business Enterprise Grants and Television Demonstration Grants;" "Community Facilities Loans;" "Community Facilities Grant Program;" "Fire and Rescue Loans;" "Direct Single Family Housing Loan and Grant Program;" and "Rural Housing Loans" that is currently approved under each program's individual information collection. In addition, under Section 1512 of the Recovery Act, recipients are required to complete projects or activities which are funded under the Recovery Act and to report on use of funds provided through this award. Failure to collect proper information could result in improper determinations of eligibility, improper use of funds, and/or unsound loans.

Description of Respondents: Individuals or Households; Business or other-for-profit; Not-for-profit institutions; State, Local, or Tribal Government.

Number of Respondents: 32,955.

Frequency of Responses: Recordkeeping; Reporting: Annually.

Total Burden Hours: 435,666.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2010–9892 Filed 4–28–10; 8:45 am]

BILLING CODE 3410–XT–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Public Meeting, Davy Crockett National Forest Resource Advisory Committee

April 21, 2010.

AGENCY: Forest Service, USDA.

ACTION: Notice of Public Meeting, Davy Crockett National Forest Resource Advisory Committee.

SUMMARY: In accordance with the Secure Rural Schools and Community Self Determination Act of 2000 (Pub. L. 106–393), [as reauthorized as part of Pub. L. 110–343] and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of Agriculture, Forest Service, Davy Crockett National Forest Resource Advisory Committee (RAC) meeting will meet as indicated below.

DATES: The Davy Crockett National Forest RAC meeting will be held on Tuesday, May 18, 2010.

ADDRESSES: The Davy Crockett National Forest RAC meeting will be held at the Davy Crockett Ranger Station located on State Highway 7, approximately one-quarter mile West of FM 227 in Houston County, Texas. The meeting will begin at 6 p.m. and adjourn at approximately 8 p.m. A public comment period will begin at 7:45 p.m.

FOR FURTHER INFORMATION CONTACT: Gerald Lawrence, Jr., Designated Federal Officer, Davy Crockett National Forest, 18551 State Hwy. 7 E., Kennard, TX 75847: Telephone: 936–655–2299 ext. 225 or e-mail at: *glawrence@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The Davy Crockett National Forest RAC proposes projects and funding to the Secretary of Agriculture under Section 203 of the Secure Rural Schools and Community Self Determination Act of 2000, (as reauthorized as part of Pub. L. 110–343). The purpose of the May 18, 2010 meeting is to primarily discuss the status of previously approved projects, and to consider new project proposals submitted by the committee members. These meetings are open to the public. The public may present written comments to the RAC. Each formal RAC meeting will also have time, as identified above, for persons wishing to

comment. The time for individual oral comments may be limited.

Gerald Lawrence, Jr.,

Designated Federal Officer, Davy Crockett National Forest RAC.

[FR Doc. 2010–9809 Filed 4–28–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–FV–09–0052; FV–09–326]

United States Standards for Grades of Frozen Blueberries

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice; withdrawal.

SUMMARY: The Agricultural Marketing Service (AMS), of the United States Department of Agriculture (USDA) is withdrawing a notice soliciting comments on its proposed revision to the United States Standards for Grades of Frozen Blueberries. After considering the comments received regarding the proposed revision and the withdrawal of the petition requesting revisions, the agency has decided not to proceed with this action.

DATES: *Effective Date:* April 29, 2010.

FOR FURTHER INFORMATION CONTACT: Myron Betts, Inspection and Standardization Section, Processed Products Branch (PPB), Fruit and Vegetable Programs (FV), AMS, USDA, 1400 Independence Avenue, SW., Room 0709, South Building; STOP 0247, Washington, DC 20250; Telephone: (202) 720–5021 or fax (202) 720–9906; or e-mail: *Myron.Betts@ams.usda.gov.* The United States Standards for Grades of Frozen Blueberries are available by accessing the AMS Web site on the Internet at *http://www.ams.usda.gov/processedinspection.*

Background

On August 22, 2008, AMS received a petition from the North American Blueberry Council (NABC), requesting revisions to the United States Standards for Grades of Frozen Blueberries. These standards are issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627).

The petitioner requested the USDA to revise the terminology used for the product description of frozen blueberries. On December 22, 2008, prior to undertaking research and other work associated with revising an official grade standard, AMS published a notice in the **Federal Register** (73 FR 78285) soliciting comments on the petition to revise the U.S. Standards for Grades of Frozen Blueberries. AMS received two comments: one from the USDA, Agricultural Research Service and the other from the American Frozen Food Institute. Both commenters stated that the proposal should include all hybrids and cultivars of the appropriate species.

Given the absence of product samples and additional information on the berries that were the subject of its petition, NABC withdrew its request. Accordingly, after considering the comments received regarding the proposed revision and the withdrawal of the petition requesting revisions; AMS has decided not to proceed further with the proposed revision to the U.S. Standards for Grades of Frozen Blueberries. The notice published in the **Federal Register** on December 22, 2008 (73 FR 87285) is hereby withdrawn.

Authority: 7 U.S.C. 1621–1627.

Dated: April 22, 2010.

David R. Shipman,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2010–9869 Filed 4–28–10; 8:45 am]

BILLING CODE 3410–02–M

COMMISSION ON CIVIL RIGHTS

Continuation of Hearing on the Department of Justice's Actions Related to the New Black Panther Party Litigation and its Enforcement of Section 11(b) of the Voting Rights Act

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of hearing.

DATE AND TIME: Friday, May 14, 2010; 9:30 a.m. EDT.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, NW., Room 540, Washington, DC 20425.

SUMMARY: The Commission's Hearing on the Department of Justice's Actions Related to the New Black Panther Party Litigation and its Enforcement of Section 11(b) of the Voting Rights Act, conducted on April 23, 2010 and noticed in the March 18, 2010 **Federal Register** at 75 FR 13076, was continued until May 14, 2010 at 9:30 a.m. EDT in Washington, DC at the Commission's offices located at 624 Ninth Street, NW., Room 540, Washington, DC 20425, and will continue thereafter until completed. An executive session not open to the public may be convened at any appropriate time before or during the hearing.

Notice of these hearings was previously published at 75 FR 13076 pursuant to the Civil Rights Commission Amendments Act of 1994, 42 U.S.C. 1975a and 45 CFR 702.3. The purpose of this hearing is to collect information within the jurisdiction of the Commission, under 42 U.S.C. 1975a, related particularly to the Department of Justice's actions in the New Black Panther Party Litigation and Enforcement of Section 11(b) of the Voting Rights Act.

The Commission is authorized to hold hearings and to issue subpoenas for the production of documents and the attendance of witnesses pursuant to 45 CFR 701.2. The Commission is an independent bipartisan, fact finding agency authorized to study, collect, and disseminate information, and to appraise the laws and policies of the Federal Government, and to study and collect information with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice. The Commission has broad authority to investigate allegations of voting irregularities even when alleged abuses do not involve discrimination.

CONTACT PERSON FOR FURTHER INFORMATION: Lenore Ostrowsky, Acting Chief, Public Affairs Unit (202) 376–8591. TDD: (202) 376–8116.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Pamela Dunston at least seven days prior to the scheduled date of the hearing at 202–376–8105. TDD: (202) 376–8116.

Dated: April 26, 2010.

David Blackwood,

General Counsel.

[FR Doc. 2010–9983 Filed 4–28–10; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the District of Columbia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights and the Federal Advisory Committee Act, that an orientation and planning meeting of the District of Columbia Advisory Committee will convene at 11 a.m. on Thursday, May 13, 2010, at the U.S. Commission on Civil Rights, 624 Ninth Street, NW., Conference Room 540, Washington, DC 20425. The purpose of the orientation meeting is to review the rules of operation for the Advisory Committee.

The purpose of the planning meeting is to plan future activities.

Members of the public are entitled to submit written comments; the comments must be received in the regional office by Monday June 14, 2010. The address is the Eastern Regional Office, 624 Ninth Street, NW., Suite 740, Washington, DC 20425. Persons wishing to e-mail their comments, or who desire additional information should contact the Eastern Regional Office at 202–376–7533 or by e-mail to: *ero@usccr.gov.*

Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

Records generated from this meeting may be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *http://www.usccr.gov*, or to contact the Eastern Regional Office at the above e-mail or street address.

The meeting will be conducted pursuant to the rules and regulations of the Commission and FACA.

Dated in Washington, DC, 26 April, 2010.

Peter Minarik,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2010–9958 Filed 4–28–10; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–807]

Certain Steel Concrete Reinforcing Bars from Turkey; Notice of Amended Final Results Pursuant to Court Decisions

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In June and November 2009 and January 2010, the United States Court of International Trade (CIT) sustained three final remand redeterminations made by the Department of Commerce (the Department) in the 2003–2004 administrative review of certain steel concrete of reinforcing bars (rebar) from Turkey. *See Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. v. United States*, Court No. 05–00613, Slip Op. 09–55 (June 15, 2009) (*Habas I*); *Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. v. United States*, Court No. 05–00613, Slip Op. 09–133 (Nov. 23, 2009) (*Habas II*); and *Nucor Corporation, Gerdau Ameristeel Corporation, and Commercial Metals Company v. United States and Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.*, Court No. 05–00616, Slip Op. 10–6 (Jan. 19, 2010) (*ICDAS*). Because all litigation for this administrative review has now concluded, the Department is issuing its amended final results in accordance with the CIT's decisions.

EFFECTIVE DATE: April 29, 2010.

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood, AD/CVD Operations, Office 2, Import Administration – International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone (202) 482–3874.

Background

In accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended (the Act), on November 8, 2005, the Department published its notice of final results in the antidumping duty administrative review of rebar from Turkey for the period of review (POR) of April 1, 2003, through March 31, 2004. *See Certain Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination To Revoke in Part*, 70 FR 67665 (Nov. 8, 2005) (*Final Results*).

In the *Final Results* the Department followed its normal practice of using POR weighted–average costs in its margin calculation for all companies, instead of quarterly–average costs as requested by Habas and ICDAS. The Department also based the U.S. date of sale for Habas on the earlier of shipment date or invoice date and the U.S. date of sale for ICDAS on contract date.

Subsequent to the final results, Habas and ICDAS contested the Department's decision to use POR costs, Habas contested the Department's decision to use invoice date as its U.S. date of sale, and the domestic industry, among other arguments, challenged the Department's decision to use invoice date as ICDAS's date of sale.

On November 18, 2005, the Department requested a voluntary remand in order to reconsider the date–of-sale issue for ICDAS. On December 15, 2005, the CIT granted the Department's request to reconsider whether, based upon the record evidence, the Department reasonably applied its date–of-sale methodology to the facts at issue. *See Nucor Corporation, Gerdau Ameristeel Corporation, and Commercial Metals Company v. United States*, Court No. 05–00616 (Dec. 15, 2005). On January 31, 2006, the Department issued its final results of redetermination, in which it found that the invoice date was the appropriate date of sale for ICDAS's U.S. sales. *See Nucor Corporation, Gerdau Ameristeel Corporation, and Commercial Metals Company v. United States; Final Results of Redetermination Pursuant to Court Remand* (Jan. 31, 2006).

On November 15, 2007, the CIT remanded for reconsideration Habas' date of sale and quarterly cost issues. *See Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. v. United States*, Court No. 05–00613, Slip Op. 07–167 (Nov. 15, 2007). On March 3, 2008, the Department issued its final results of redetermination pursuant to the CIT's November 15, 2007, remand order, finding that the contract date was the more appropriate date of sale and providing additional justification for relying on POR costs. *See Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. v. United States; Final Results of Redetermination Pursuant to Court Remand* (Mar. 3, 2008).

On March 24, 2009, the CIT again remanded the ICDAS date of sale issue to the Department, requiring that the Department provide a more in–depth analysis as to the reason the use of invoice date was appropriate. The CIT also remanded two additional issues, at the Department's request, related to the calculation of ICDAS's cost of production (COP) and the universe of U.S. sales examined in the review. *See Nucor Corporation, Gerdau Ameristeel Corporation, and Commercial Metals Company, v. United States*, Court No. 05–00616, Slip Op. 09–20 (March 24, 2009).

On June 15, 2009, the CIT affirmed the Department's determination to use contract date as the date of sale for Habas' U.S. sales. *See Habas I.* However, the CIT also determined that the Department's analysis of Habas' COP (*i.e.*, quarterly costs vs. annual weighted–average costs) in the *Final Results* was not supported by substantial evidence on the record, and the court remanded this issue to the Department once again for additional reconsideration. *Id.*

On September 8, 2009, and November 6, 2009, respectively, the Department issued its final results of redetermination pursuant to the CIT's June 15, 2009, and March 24, 2009, rulings. *See Habas Sinai Tibbi Gazlar Istihsal Endustrisi A.S. v. United States, Final Results of Redetermination*

Pursuant to Court Remand (Sept. 8, 2009) and *Nucor Corporation, Gerdau Ameristeel Corporation, and Commercial metals Company v. United Sates, Final Results of Redetermination Pursuant to Court Remand* (Nov. 6, 2009). In both remand redeterminations, the Department reconsidered the appropriateness of using POR cost data, and consistent with the court's orders, recalculated the margin for both companies using quarterly costs. In addition, in its November 6, 2009, redetermination, the Department provided additional justification for its date of sale methodology for ICDAS, as well as for its methodology of defining the universe of reviewed transactions.

On November 23, 2009, and January 19, 2010, respectively, the CIT found that the Department complied with its remand orders and sustained the Department's remand redeterminations in all respects. *See Habas II* and *ICDAS*.

On December 4, 2009, and February 12, 2010, respectively, consistent with the decision of the United States Court of Appeals for the Federal District in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990), the Department notified the public that the CIT's decisions were "not in harmony" with the Department's *Final Results. See Certain Steel Concrete Reinforcing Bars from Turkey: Notice of Court Decision Not in Harmony with Final Results of Administrative Review*, 74 FR 65515 (Dec. 10, 2009) and *Certain Steel Concrete Reinforcing Bars from Turkey: Notice of Court Decision Not in Harmony with Final Results of Administrative Review*, 75 FR 7562 (Feb. 22, 2010) (Collectively, *Rebar Timken Notices*). No party appealed either of the CIT's judgments. Because there are now final and conclusive decisions in the Court proceedings as explained in the *Rebar Timken Notices*, we are issuing amended final results to reflect the results of the remand determinations.

Amended Final Results of Review

We are amending the final results of the 2003–2004 administrative review of the antidumping duty order on rebar from Turkey to revise the weighted–average margin for Habas from 26.07 percent to 5.58 percent, and to revise the weighted–average margin for ICDAS from 0.16 percent to 0.70 percent.

Assessment

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries.

Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.*, less than 0.50 percent). The Department will issue appraisement instructions directly to CBP.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 23, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–10024 Filed 4–28–10; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Technology Innovation Program Advisory Board

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Technology Innovation Program Advisory Board, National Institute of Standards and Technology (NIST) will meet in open session on Tuesday, May 11, 2010, from 8:30 a.m. to 3:15 p.m. Eastern daylight savings time.

DATES: The meeting will convene Tuesday, May 11, at 8:30 a.m. and will adjourn at 3:15 p.m.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Advanced Measurement Laboratory, Building 215, Room C103, Gaithersburg, Maryland 20899. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Rene Cesaro, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2162. Rene's e-mail address is *rene.cesaro@nist.gov*.

SUPPLEMENTARY INFORMATION: The Technology Innovation Program (TIP) Advisory Board is composed of ten members appointed by the Director of NIST who are eminent in such fields as business, research, science and technology, engineering, education, and management consulting. The purpose of this meeting is to review and make recommendations regarding general policy for the Technology Innovation Program, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. The agenda will include a TIP update, a presentation on the TIP selection process, and a discussion of potential critical national need areas for future funding. The agenda may change to accommodate Board business. The final agenda will be posted on the TIP Web site at: *http://www.nist.gov/tip/*. Individuals and representatives of organizations who would like to offer comments and suggestions related to the Board's affairs are invited to request a place on the agenda. On May 11, 2010, approximately one-half hour will be reserved for public comments, and speaking times will be assigned on a first-come, first-serve basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be about three minutes each. Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to the TIP Advisory Board, National Institute of Standards and Technology, 100 Bureau Drive, MS 4700, Gaithersburg, Maryland 20899, via fax at (301) 975–4032, or electronically by e-mail to (*lorel.wisniewski@nist.gov*).

All visitors to the National Institute of Standards and Technology site will have to pre-register to be admitted. Please submit your name, time of arrival, e-mail address and phone number to Rene Cesaro no later than Friday, May 7, and she will provide you with instructions for admittance. Ms. Cesaro's e-mail address is *rene.cesaro@nist.gov* and her phone number is (301) 975–2162.

Dated: April 20, 2010.

Marc G. Stanley,

Acting Deputy Director.

[FR Doc. 2010–9494 Filed 4–28–10; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Technical Advisory Committee will meet on May 13, 2010, 10 a.m., Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration

with respect to technical questions that affect the level of export controls applicable to materials and related technology.

Agenda

Open Session

1. Opening Remarks and Introduction.
2. Remarks from the Bureau of Industry and Security Management.
3. Discussion on USG's 2009 Confidence Building Measures (CBMs) Submitted to the Biological and Toxin Weapon Convention (BWC).
4. Presentation on Composite for Biological Agents and Processing Equipment.
5. Report on Composite Working Group and Export Control Classification Number (ECCN) Review Subgroup.
6. Report on Recent Commerce Control List Changes Published in the Federal Register.
7. New Business.
8. Public Comments.

Closed Session

9. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yspringer@bis.doc.gov* no later than May 6, 2010.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the materials should be forwarded prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 18, 2009, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the portion of the meeting dealing with matters the premature disclosure of which would likely frustrate the implementation of a proposed agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: April 26, 2010.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2010–10027 Filed 4–28–10; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. EDA has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT MARCH 31, 2010 THROUGH APRIL 22, 2010

Firm	Address	Date accepted for filing	Products
Crustbuster/Speed King, Inc	2300 E. Trail Street, P.O. Box 1438, Dodge City, KS 67801.	4/2/2010	Grain Drills, Cotton Harvesting, Seed Handling, Grain Carts and Industrial Agricultural Equipment.
Bradford Clocks, Limited	1080 Hudson Drive, Weatherly, PA 18255.	4/9/2010	Manufactures wooden clocks, human and pet cremation urns and flag cases.
Permanent Magnet Co., Inc	4437 Bragdon St., Indianapolis, IN 46226.	4/9/2010	Alnico magnets for industrial use.
Arkansas Flag & Banner, Inc	800 West Ninth Street, Little Rock, AR 72201.	4/12/2010	Manufacture custom products such as flags, banners, table coverings, accessories, *etc.* that are woven, embroidered, knitted, crocheted, *etc.* and otherwise processed (*e.g.* printing).
Able Manufacturing & Assembly, LLC	1000 Schifferdecker Ave, Joplin, MO 68801.	4/13/2010	Specialty truck cabs, hoods, *etc.;* construction and military cabs, hoods, *etc.;* Water cooling tower parts; Passenger train bonnets; Wind energy parts; Misc. Plastic Parts.
The Craft-Art Company, Inc	1209 Logan Circle NW., Atlanta, GA 30318.	4/13/2010	The firm produces custom wood counter, table, and vanity tops. Primary material is wood.
KMS Fab, LLC	100 Parry Street, Luzerne, PA 18709	4/14/2010	Manufactures precision sheet metal fabrications ranging from prototype to large production runs.
Zenith Engraving Company, Inc	731 Wilson Street, Chester, SC 29706	4/14/2010	The firm produces screens for rotary screen textile printing; primary manufacturing material is nickel.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT MARCH 31, 2010 THROUGH APRIL 22, 2010—Continued

Firm	Address	Date accepted for filing	Products
Fort Worth Aluminum Foundry, Inc	2708 North Nichols, Fort Worth, TX 76106.	4/16/2010	Manufacturer of Custom cast aluminum for heavy industry pressure leaf filters.
NCAD Products, Inc	P.O. Box 622188, Oviedo, FL 32762	4/16/2010	The firm produces industrial, commercial and medical goods. Primary materials include steel and plastic.

Any party having a substantial interest in these proceedings may request a public hearing on the matter.

A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 7106, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the procedures set forth in Section 315.9 of EDA's final rule (71 FR 56704) for procedures for requesting a public hearing. The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: April 22, 2010.

Bryan Borlik,

Program Director.

[FR Doc. 2010–9948 Filed 4–28–10; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–836]

Certain Cut–to-Length Carbon–Quality Steel Plate from the Republic of Korea: Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 30, 2010, in response to requests from interested parties, the Department of Commerce (the Department) published a notice of initiation of the administrative review of the antidumping duty order on certain cut–to-length carbon–quality steel plate (CTL plate) from the Republic of Korea. The period of review is February 1, 2009, through January 31, 2010. The Department is rescinding this review.

EFFECTIVE DATE: April 29, 2010.

FOR FURTHER INFORMATION CONTACT: Yang Jin Chun, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5760.

SUPPLEMENTARY INFORMATION:

Background

On March 30, 2010, in response to requests from interested parties, the Department initiated an administrative review of the antidumping duty order on CTL plate from the Republic of Korea for the period February 1, 2009, through January 31, 2010. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 75 FR 15679, 15681 (March 30, 2010) (*Initiation Notice*). The two companies identified in the *Initiation Notice* for review were Dongkuk Steel Mill Co., Ltd. (DSM), and Hyosung Corporation (Hyosung). On March 31, 2010, DSM withdrew its request for review of its sales of merchandise subject to the order. On April 1, 2010, Hyosung withdrew its request for review of its sales of subject merchandise.

Rescission of Review

In accordance with 19 CFR 351.213(d)(1), the Department will rescind an administrative review "if a party that requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review." We received letters withdrawing the requests for review of DSM and Hyosung within the 90–day time limit. We received no other requests for review of these companies. In accordance with 19 CFR 351.213(d)(1), the Department is rescinding the review with respect to CTL plate from the Republic of Korea produced and/or exported by these two companies. The Department will issue appropriate assessment instructions to U.S. Customs and Border Protection 15 days after publication of this notice.

Notification to Importer

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice is published in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: April 23, 2010.

Edward C. Yang,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–10019 Filed 4–28–10; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DOD–2009–HA–0155]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by June 1, 2010.

Title and OMB Number: Retention of Behavioral Health Providers Survey and Focus Groups; OMB Control Number 0720–TBD.

Type of Request: New.

Number of Respondents: 800.

Responses per Respondent: 1.

Annual Responses: 800.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 200 hours.

Needs and Uses: The Force Health Protection and Readiness (FHP&R) program has hired Lockheed Martin to

develop and implement a survey instrument to evaluate retention of behavioral health providers (psychiatrists and psychologists). Lockheed Martin is working with a subcontractor, Mathematica Policy Research, whose staff will help with the survey data collection for this project.

Information collected will include type of behavioral health provider, importance of different factors influencing decision to join the military, deployment information, ratings of military mental health treatment, salary information, satisfaction with being a military mental health provider, overall health status, and demographic information. Former providers also will be surveyed about reasons for leaving the military, current work status, satisfaction with current employment and salary information, potential influences that could have extended military service. Current providers alsowill be surveyed about reasons that might influence decision to extend military service, first and last name, rank, type of behavioral health provider, date left service (if former provider), mailing address, e-mail address, phone number (home and cell), and installation/last installation.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. John Kraemer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Kraemer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

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.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: April 26, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–10001 Filed 4–28–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DOD–2009–HA–0159]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by June 1, 2010.

Title and OMB Number: TRICARE Prime Enrollment Application/PCM Change Form DD Form 2876, and TRICARE Prime Disenrollment Application; DD Form 2877; OMB Number 0720–0008.

Type of Request: Extension.

Number of Respondents: 72,905.

Responses per Respondent: 1.

Annual Responses: 72,905.

Average Burden per Response: 18.367 minutes (average).

Annual Burden Hours: 22,317 hours.

Needs and Uses: This information is collected in accordance with the National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106–398), section 723(b)(E)). These collection instruments serve as applications for the Enrollment, Primary Care Manager (PCM) Change and Disenrollment for the Department of Defense's TRICARE Prime program established in accordance with title 10 U.S.C. 1099 (which calls for a healthcare enrollment system). Monthly payment options for retiree enrollment fees for TRICARE Prime are established in accordance with title 10 U.S.C. 1097a(c). The information collected on the TRICARE Prime Enrollment Application/PCM Change Form provides the necessary data to determine beneficiary eligibility, to identify the selection of a health care option, and to change the designated PCM when the beneficiary is relocating or merely requests a local PCM change. The information collected on the TRICARE Prime Disenrollment Form provides the necessary data to disenroll a beneficiary from TRICARE Prime. The Disenrollment Application is needed to implement disenrollment from TRICARE Prime, TRICARE Prime Remote or the Uniformed Services Family Health Plan as requested by the enrollee. Failure to provide information will result in continued enrollment and beneficiaries' responsibility for payment of an enrollment fee.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. John Kraemer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Kraemer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

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.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: April 26, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–10005 Filed 4–28–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DOD–2009–HA–0185]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the

following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by June 1, 2010.

Title and OMB Number: Women, Infants, and Children Overseas Program (WIC Overseas) Eligibility Application; OMB Control Number 0720–0030.

Type of Request: Extension.

Number of Respondents: 375.

Responses per Respondent: 2.

Annual Responses: 375.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 187.5 hours.

Needs and Uses: The proposed information collection requirement is necessary for individuals to apply for certification and periodic recertification to receive WIC Overseas benefits.

Affected Public: Individuals or households.

Frequency: Semi-annually.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. John Kraemer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Kraemer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

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.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: April 26, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–10004 Filed 4–28–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Federal Advisory Committee; Department of Defense Military Family Readiness Council; Charter Amendment

AGENCY: Department of Defense (DoD).

ACTION: Charter amendment.

SUMMARY: Pursuant to the Federal Advisory Committee Act of 1972, (5 U.S.C., Appendix 2), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and 41 CFR 102–3.85 the Department of Defense announces that it has amended the 2008–2010 charter for the Department of Defense Military Family Readiness Council (hereafter referred to as the "Council").

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Deputy Advisory Committee Management Officer for the Department of Defense, 703–601–6128.

SUPPLEMENTARY INFORMATION: The Council's charter was amended to reflect congressionally-mandated changes to the Council membership, and the Secretary of Defense's decision to appoint a senior flag officer's spouse as an advisor to the Council.

The Council's mission is to review and make recommendations to the Secretary of Defense on: (a) The policy and plans required under 10 U.S.C. 1781b; (b) monitor requirements for the support of military family readiness by the Department of Defense; and (c) evaluate and assess the effectiveness of the DoD military family readiness programs and activities.

The Council, no later than February 1st of each year, shall submit to the Secretary of Defense and the Defense congressional oversight committees a report on military family readiness. Each report, at a minimum, shall include the following:

a. An assessment of the adequacy and effectiveness of the military family readiness programs and activities of the Department of Defense during the preceding fiscal year in meeting the needs and requirements of military families.

b. Recommendations on actions to be taken to improve the capability of the military family readiness programs and activities of the Department of Defense to meet the needs and requirements of military families, including actions relating to the allocation of funding and other resources to and among such programs and activities.

The Council, pursuant to 10 U.S.C. 1781a(b), as amended by section 562 of Public Law 111–84, shall be comprised of no more than 14 members, appointed as specified below:

a. The Under Secretary of Defense for Personnel and Readiness, who shall serve as chair of the Council.

b. One representative of each of the Army, Navy, Marine Corps, and Air Force, who shall be appointed by the Secretary of Defense.

c. The senior enlisted advisors of the Army, Navy, Marine Corps, and Air Force, or the spouse of a senior enlisted advisor in lieu of that Military Services' senior listed advisor.

d. One representative from the Army National Guard or Air National Guard, who shall be appointed by the Secretary of Defense.

e. One representative from the Army Reserve, Navy Reserve, Marine Corps Reserve or Air Force Reserve, who shall be appointed by the Secretary of Defense.

f. Three individuals appointed by the Secretary of Defense from among representatives of military family organizations, including military family organizations that represent the Regular and Reserve Components.

With regard to membership requirements of subparagraph "b" above, the Secretary of Defense has appointed the Vice Chief of Staff, U.S. Army; the Vice Chief of Naval Operations, U.S. Navy; the Vice Chief of Staff, U.S. Air Force; and the Assistant Commandant of the U.S. Marine Corps. With regard to membership requirements of subparagraph "c" above, the Secretary of Defense has appointed the senior enlisted members of the Army, Navy, Air Force and Marine Corps. The appointments of these members pursuant to subparagraphs "b" and "c", unless otherwise amended by the Secretary of Defense, shall remain in effect for the life of the Council, and these appointments will be based upon the specified DoD ex-officio positions. Thus, Council membership of the particular individual serving as the member in a specified position shall be terminated at the conclusion of the member's qualifying status in that position. The successor in office shall assume the position as a Council member.

If the Secretary of Defense amends his standing appointment pursuant to subparagraph "c" above for the senior enlisted members of the Military Services to serve based upon the specified DoD ex-officio positions, and the Secretary appoints a spouse of a senior enlisted member in lieu of the senior enlisted member from a particular Military Service, the spouse would be appointed as a special government employee, unless the

spouse was a regular government employee in his or her own right. The appointment of special government employees shall not be for more than one year, but may be renewed. However, if a spouse of a senior listed member is appointed pursuant to subparagraph "c," such membership shall terminate at the conclusion of the senior enlisted member's tour of duty during which the spouse was appointed to the Council.

Pursuant to 10 U.S.C. 1781a, as amended by section 562b of Public Law 111–84, individuals selected and appointed to positions covered by the membership requirements of subparagraphs "d" through "f" above shall serve three year terms on the Council.

Representation on the Council for subparagraph "d" above alternate every three years between the Army National Guard and the Air National Guard. Representation on the Council for subparagraph "e" above shall rotate among the Reserve Components listed in subparagraph "d" above and pursuant to a set rotational scheme approved by the Secretary of Defense, in consultation with the Under Secretary of Defense for Personnel and Readiness. Council membership pursuant to subparagraphs "d" and "f" above shall terminate at the conclusion of the member's qualifying status. The successor in office shall assume the position as a Council member for the remainder of the three-year term.

Members of the National Guard and Reserve Components, who are assigned to title 10, United States Code positions, when appointed to the Council, shall serve as regular government employees.

Council members appointed by the Secretary of Defense, who are not full-time or permanent part-time employees of the Federal government, shall be appointed as experts and consultants under the authority of 5 U.S.C. 3109, and serve as special government employees, whose appointments must be renewed on an annual basis.

The Secretary of Defense, in consultation with the Chairman of the Joint Chief of Staff and pursuant to 41 CFR 102–3.130(g), may appoint the spouse of a senior U.S. military flag officer (military pay grade O–9 or O–10) to serve as an advisor to the Council. This senior spouse advisor shall be appointed as an expert and consultant under the authority of 5 U.S.C. 3109, and shall serve as a special government employee, unless he or she is a regular government employee in his or her own right. As an expert and consultant under section 3109, this senior spouse advisor shall have no voting rights on the Council or its subcommittees; nor shall this senior spouse advisor participate in the deliberations of the Council or its subcommittees.

With the exception of travel and per diem for official travel, Council members appointed as special government employees shall serve without compensation.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations are reminded that they may submit written statements to the committee membership about the committee's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Department of Defense Military Family Readiness Council.

All written statements shall be submitted to the Designated Federal Officer for the Department of Defense Military Family Readiness Council, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Department of Defense Military Family Readiness Council's Designated Federal Officer, may be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp.*

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Department of Defense Military Family Readiness Council. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: April 23, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–9897 Filed 4–28–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Federal Advisory Committee; Chief of Naval Operations Executive Panel; Charter Renewal

AGENCY: Department of Defense (DoD).

ACTION: Renewal of Federal advisory committee.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, (5 U.S.C. Appendix), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and 41 CFR 102–3.50, the Department of Defense gives notice that it is renewing the charter for the Chief of Naval Operations Executive Panel (hereafter referred to as the Panel).

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Deputy Advisory Committee Management Officer for the Department of Defense, 703–601–6128.

SUPPLEMENTARY INFORMATION: The Panel is a discretionary Federal advisory committee that shall provide independent advice and recommendations to the Secretary of Defense, through the Secretary of the Navy and the Chief of Naval Operations on a broad array of issues relating to the following:

a. The role of naval power in the international strategic environment, including issues of technology, manpower, strategy and policy;

b. Current and projected Navy policies and procedures to enhance the Navy's effectiveness and efficiency in execution of national and defense policy; and

c. Alternative policies and postures for fulfilling the Navy's mission in the face of evolving political, economic, technological, and military circumstances.

The Panel is not established to advise on individual procurements, and no matter shall be assigned to the Panel for its consideration that would require any Panel member to participate personally and substantially in the conduct of any specific procurement or place him or her in the position of acting as a contracting or procurement official.

The Chief of Naval Operations may act upon the Panel's advice and recommendations.

The Panel shall be comprised of no more than 40 members appointed by the Secretary of Defense who are eminent authorities in the fields of science, engineering, business, and political-military.

Panel Members appointed by the Secretary of Defense, who are not full-time or permanent part-time Federal officers or employees, shall be appointed under the authority of 5 U.S.C. 3109, and serve as special government employees. All Panel member appointments shall be renewed by the Secretary of Defense on an annual basis. In addition, all Panel members, with the exception of travel and per diem for official travel, shall serve without compensation.

The Chief of Naval Operations shall select the Panel's chairperson from the total membership.

With DoD approval, the Panel is authorized to establish subcommittees, as necessary and consistent with its mission. These subcommittees or working groups shall operate under the

provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and other appropriate Federal statutes and regulations.

Such subcommittees or working groups shall not work independently of the chartered Panel, and shall report all their recommendations and advice to the Panel for full deliberation and discussion. Subcommittees or working groups have no authority to make decisions on behalf of the chartered Panel; nor can they report directly to the Department of Defense or any Federal officers or employees who are not Panel members.

Subcommittee members, who are not Panel members, shall be appointed in the same manner as the Panel members.

The Panel shall meet at the call of the Panel's Designated Federal Officer, in consultation with the Chairperson and the Chief of Naval Operations. The estimated number of Panel meetings is eight per year.

The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. In addition, the Designated Federal Officer is required to be in attendance at all meetings; however, in the absence of the Designated Federal Officer, the Alternate Designated Federal Officer shall attend the meeting.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the Chief of Naval Operations Executive Panel's membership about the Panel's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of Chief of Naval Operations Executive Panel.

All written statements shall be submitted to the Designated Federal Officer for the Chief of Naval Operations Executive Panel, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Chief of Naval Operations Executive Panel Designated Federal Officer can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp*.

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Chief of Naval Operations Executive Panel. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: April 26, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–10002 Filed 4–28–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Federal Advisory Committee; Air University Board of Visitors; Charter Renewal

AGENCY: Department of Defense (DoD).

ACTION: Renewal of Federal advisory committee.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, (5 U.S.C. Appendix), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and 41 CFR 102–3.50, the Department of Defense gives notice that it is renewing the charter for the Air University Board of Visitors (hereafter referred to as the Board).

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Deputy Advisory Committee Management Officer for the Department of Defense, 703–601–6128.

SUPPLEMENTARY INFORMATION: The Board is a discretionary Federal advisory committee that shall provide independent advice and recommendations on educational, doctrinal, research policies and activities of Air University. The Board shall:

a. Review and evaluate the progress of the educational programs and the support activities of the university;

b. Review and evaluate the published statement of purpose, institutional policies, and financial resources of the university; and

c. Review and evaluate the educational effectiveness, quality of student learning, administrative and educational support services, and teaching, research and public service of the university.

The Secretary of the Air Force may act upon the Board's advice and recommendations.

The Board shall be comprised of not more than thirty-five members appointed by the Secretary of Defense who are eminent authorities in the field of air power, defense, management, leadership and academia. All Board member appointments shall be on an annual basis.

The Board's Chairperson shall be elected by a vote of the membership and approved by the Commander, Air University.

Board members appointed by the Secretary of Defense, who are not full-time or permanent part time Federal officers or employees, shall be appointed under the authority of 5 U.S.C. 3109, and serve as special government employees. In addition, all Board members, with the exception of travel and per diem for official travel, shall serve without compensation.

With DoD approval, the Board is authorized to establish subcommittees, as necessary and consistent with its mission. These subcommittees or working groups shall operate under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and other appropriate Federal statutes and regulations.

Such subcommittees or working groups shall not work independently of the chartered Board, and shall report all their recommendations and advice to the Board for full deliberation and discussion. Subcommittees or working groups have no authority to make decisions on behalf of the chartered Board; nor can they report directly to the Department of Defense or any Federal officers or employees who are not Board members.

Subcommittee members, who are not Board members, shall be appointed in the same manner as the Board members.

The Board shall meet at the call of the Board's Designated Federal Officer, in consultation with the Chairperson and Commander, Air University. The estimated number of Board meetings is four per year.

The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. In addition, the Designated Federal Officer is required to be in attendance at all meetings; however, in the absence of the Designated Federal Officer, the Alternate Designated Federal Officer shall attend the meeting.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the Air University Board of Visitors' membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of Air University Board of Visitors.

All written statements shall be submitted to the Designated Federal Officer for the Air University Board of Visitors, and this individual will ensure

that the written statements are provided to the membership for their consideration. Contact information for the Air University Board of Visitors Designated Federal Officer can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp*.

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Air University Board of Visitors. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: April 26, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–10003 Filed 4–28–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Federal Advisory Committee; Naval Research Advisory Committee; Charter Renewal

AGENCY: Department of Defense (DoD).

ACTION: Renewal of Federal advisory committee.

SUMMARY: Under the provisions of 10 U.S.C. 5024, the Federal Advisory Committee Act of 1972, (5 U.S.C. Appendix), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.50, the Department of Defense gives notice that it is renewing the charter for the Naval Research Advisory Committee (hereafter referred to as the Committee).

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Deputy Advisory Committee Management Officer for the Department of Defense, 703–601–6128.

SUPPLEMENTARY INFORMATION: The Committee is a non-discretionary Federal advisory committee that shall provide independent advice and recommendations to the Secretary of the Navy, the Chief of Naval Operations and the Commandant of the U.S. Marine Corps on scientific, technical, and research and development matters confronting the U.S. Navy and U.S. Marine Corps.

The Committee shall report to the Secretary of the Navy, through the Assistant Secretary of the Navy for Research, Development and Acquisitions. The Secretary of the Navy may act upon the Committee's advice and recommendations.

The Committee shall be composed of not more than 15 members who are eminent authorities in the fields of science, research and development work, and other matters of special interest to the Department of the Navy. Pursuant to 10 U.S.C. 5024(a), one member of the Committee shall be from the field of medicine.

The Committee members shall be appointed by the Secretary of Defense, and their appointments will be renewed on an annual basis. Those members, who are not full-time or permanent part-time Federal officers or employees, shall be appointed as experts and consultants under the authority of 5 U.S.C. 3109, and serve as special government employees. With the exception of travel and per diem for official travel, Committee members shall serve without compensation, unless otherwise authorized by the Secretary of the Navy.

Pursuant to 10 U.S.C. 5024(a), the Secretary of the Navy may establish the terms of appointment for members of the Navy Research Advisory Committee.

With DoD approval, the Committee is authorized to establish subcommittees, as necessary and consistent with its mission. These subcommittees or working groups shall operate under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and other appropriate Federal statutes and regulations.

Such subcommittees or workgroups shall not work independently of the chartered Committee, and shall report all their recommendations and advice to the Committee for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered Committee; nor can they report directly to the Department of Defense or any Federal officers or employees who are not Committee members.

Subcommittee members, who are not Committee members, shall be appointed in the same manner as the Committee members.

The Committee shall meet at the call of the Committee's Designated Federal Officer, in consultation with the Office of the Secretary of the Navy and the Chairperson. The estimated number of Committee meetings is four per year.

The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. In addition, the Designated Federal Officer is required to be in attendance at all meetings; however, in the absence of the Designated Federal Officer, the Alternate Designated Federal Officer shall attend the meeting.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the Naval Research Advisory Committee's membership about the Committee's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of Naval Research Advisory Committee.

All written statements shall be submitted to the Designated Federal Officer for the Naval Research Advisory Committee, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Naval Research Advisory Committee Designated Federal Officer can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp*.

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Naval Research Advisory Committee. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: April 23, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–9900 Filed 4–28–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Federal Advisory Committee; U.S. Air Force Scientific Advisory Board; Charter Renewal

AGENCY: Department of Defense (DoD).

ACTION: Renewal of Federal advisory committee.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, (5 U.S.C. Appendix), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and 41 CFR 102–3.50, the Department of Defense gives notice that it is renewing the charter for the U.S. Air Force Scientific Advisory Board (hereafter referred to as the Board).

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Deputy Advisory Committee Management Officer for the Department of Defense, 703–601–6128.

SUPPLEMENTARY INFORMATION: The Board is a discretionary Federal advisory

committee that shall provide independent advice and recommendations on matters of science and technology relating to the Air Force mission. The Board shall:

a. Provide independent technical advice to the U.S. Air Force leadership.

b. Study topics deemed critical by the Secretary of the Air Force and the Chief of Staff of the Air Force.

c. Recommend application of technology to improve U.S. Air Force capabilities.

d. Provide an independent review of the quality and relevance of the U.S. Air Force science and technology program.

The Secretary of the Air Force may act upon the Board's advice and recommendations.

The Board shall be comprised of no more than 60 members who are distinguished members of the science and technology communities, industry, and academia.

The Board members shall be appointed by the Secretary of Defense, and their appointments will be renewed on an annual basis. Those members, who are not full-time or permanent part-time federal officers or employees, shall be appointed as experts and consultants under the authority of 5 U.S.C. 3109, and serve as special government employees.

The Secretary of the Air Force shall select the Board's Chairperson. In addition, the Secretary of the Air Force may appoint, as deemed necessary non-voting consultants to provide technical expertise to the Board. These consultants, if not full-time or part-time government employees, shall be appointed under the authority of 5 U.S.C. 3109, shall serve as special government employees, shall be appointed on an intermittent basis to work specific Board-related efforts, and shall have no voting rights.

Board members and consultants, with the exception of travel and per diem for official travel, shall serve without compensation. However, the Secretary of the Air Force, at his or her discretion, may authorize compensation to Board members and consultants in accordance with governing statutes, Executive Orders and regulations.

With DoD approval, the Board is authorized to establish subcommittees, as necessary and consistent with its mission. These subcommittees or working groups shall operate under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and other appropriate Federal statutes and regulations.

Such subcommittees or workgroups shall not work independently of the chartered Board, and shall report all their recommendations and advice to the Board for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered Board; nor can they report directly to the Department of Defense or any Federal officers or employees who are not Board members.

Subcommittee members, who are not Board members, shall be appointed in the same manner as the Board members.

The Board shall meet at the call of the Board's Designated Federal Officer, in consultation with the Chairperson. The estimated number of Board meetings is four per year.

The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. In addition, the Designated Federal Officer is required to be in attendance at all meetings; however, in the absence of the Designated Federal Officer, the Alternate Designated Federal Officer shall attend the meeting.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the U.S. Air Force Scientific Advisory Board's membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of U.S. Air Force Scientific Advisory Board.

All written statements shall be submitted to the Designated Federal Officer for the U.S. Air Force Scientific Advisory Board, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the U.S. Air Force Scientific Advisory Board Designated Federal Officer can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp*.

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the U.S. Air Force Scientific Advisory Board. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: April 23, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–9899 Filed 4–28–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Federal Advisory Committee; United States Strategic Command Strategic Advisory Group; Charter Renewal

AGENCY: Department of Defense (DoD).

ACTION: Renewal of Federal advisory committee.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and 41 CFR 102–3.50, the Department of Defense gives notice that it is renewing the charter for the United States Strategic Command Strategic Advisory Group (hereafter referred to as the Group).

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Deputy Advisory Committee Management Officer for the Department of Defense, 703–601–6128.

SUPPLEMENTARY INFORMATION: The Group is a discretionary Federal advisory committee and shall provide the Chairman of the Joint Chiefs of Staff and the Commander of the U.S. Strategic Command independent advice and recommendations on scientific, technical, intelligence, and policy-related matters of interest to the Joint Chiefs of Staff and the U.S. Strategic Command concerning the development and implementation of the Nation's strategic war plans. The Group shall provide independent advice and recommendations regarding enhancements in mission area responsibilities. The Group shall further provide independent advice and recommendations on other matters related to the Nation's strategic forces, as requested by the Chairman of the Joint Chiefs of Staff or the Commander of the U.S. Strategic Command.

The Chairman of the Joint Chiefs of Staff may act upon the Group's advice and recommendations.

The Group shall be composed of not more than 50 members who are eminent authorities in the fields of strategic policy formulation, nuclear weapon design and national command, control, communications, intelligence and information operations, or other important aspects of the Nation's strategic forces.

Group members shall be appointed by the Secretary of Defense, and their membership shall be renewed by the Secretary of Defense on an annual basis.

Group members appointed by the Secretary of Defense, who are not full-time or permanent part-time federal officers or employees, shall be

appointed under the authority of 5 U.S.C. 3109, and serve as special government employees. In addition, all Group members, with the exception of travel and per diem for official travel, shall serve without compensation.

The Commander of the U.S. Strategic Command shall select the Group's chairperson from the total membership. In addition, the Chairman of the Joint Chiefs of Staff or designated representative may invite other distinguished Government officers to serve as non-voting observers of the Group, and the Chairman of the Joint Chiefs of Staff may appoint consultants, with special expertise to assist the Group on an ad hoc basis. These consultants, if not full-time or part time government employees, shall be appointed under the authority of 5 U.S.C. 3109, shall serve as special government employees, shall be appointed on an intermittent basis to work specific Group-related efforts, shall have no voting rights whatsoever on the Group or any of its subcommittees, and shall not count toward the Group's total membership.

With DoD approval, the Group is authorized to establish subcommittees, as necessary and consistent with its mission. These subcommittees or working groups shall operate under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and other appropriate Federal statutes and regulations.

Such subcommittees or workgroups shall not work independently of the chartered Group, and shall report all their recommendations and advice to the Group for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered Group; nor can they report directly to the Department of Defense or any Federal officers or employees who are not Group members.

Subcommittee members, who are not Group members, shall be appointed in the same manner as the Group members.

The Group shall meet at the call of the Group's Designated Federal Officer, in consultation with the Chairperson. The estimated number of Group meetings is two per year.

The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. In addition, the Designated Federal Officer is required to be in attendance at all meetings; however, in the absence of the Designated Federal Officer, the Alternate Designated Federal Officer shall attend the meeting.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the United States Strategic Command Strategic Advisory Group's membership about the Group's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of United States Strategic Command Strategic Advisory Group.

All written statements shall be submitted to the Designated Federal Officer for the United States Strategic Command Strategic Advisory Group, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the United States Strategic Command Strategic Advisory Group Designated Federal Officer can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp.*

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the United States Strategic Command Strategic Advisory Group. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: April 26, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–10000 Filed 4–28–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Federal Advisory Committee; Advisory Council on Dependents' Education (ACDE); Postponed Meeting

AGENCY: Department of Defense Education Activity (DoDEA), DoD.

ACTION: Meeting postponement notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, appendix 2 of title 5, United States Code, Public Law 92–463, a notice published on March 1, 2010, (75 FR 9184), announcing a meeting of the Advisory Council on Dependents' Education (ACDE) scheduled to be held on April 30, 2010, in Wiesbaden, Germany, has been postponed due to unprecedented and unpredictable ash cloud formation restricting air travel to and from the European continent. A new meeting date will be announced.

FOR FURTHER INFORMATION CONTACT: Ms. Leesa Rompre, at (703) 588–3128, or at *Leesa.Rompre@hq.dodea.edu*.

Dated: April 26, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–9998 Filed 4–28–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors Meeting

AGENCY: Defense Acquisition University, DoD.

ACTION: Announcement of meeting.

SUMMARY: The next meeting of the Defense Acquisition University (DAU) Board of Visitors (BoV) will be held at DAU Headquarters at Fort Belvoir, Virginia. The purpose of this meeting is to report back to the BoV on continuing items of interest.

DATES: The meeting will be held on May 19, 2010 from 0830–1400.

ADDRESSES: The meeting will be held at 9820 Belvoir Road, Fort Belvoir, Virginia 22060.

FOR FURTHER INFORMATION CONTACT: Ms. Kelley Berta at 703–805–5412.

SUPPLEMENTARY INFORMATION: The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first served basis. Persons desiring to attend the meeting should call Ms. Kelley Berta at 703–805–5412.

Dated: April 23, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–9896 Filed 4–28–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2010–OS–0057]

Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Defense Logistics Agency proposes to alter a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on June 1, 2010 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is of 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: Ms. Jody Sinkler at (703) 767–5045.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

The proposed system reports, as required by 5 U.S.C. 552a(r), of the Privacy Act of 1974, as amended, were submitted on April 16, 2010, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996; 61 FR 6427).

Dated: April 23, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S335.01

SYSTEM NAME:

Training and Employee Development Record System (November 18, 2003; 68 FR 65047).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "The master file is maintained by the Director, Defense Logistics Agency Training Center, Building 11, Section 5, 3990 E. Broad Street, Columbus, OH 43216–5000.

Subsets of the master file are maintained by DLA Support Services, Business Management Office, 8725 John J. Kingman Road, Stop 6220, Fort Belvoir, VA 22060–6221; the DLA Primary Level Field Activities; and individual supervisors.

Official mailing addresses are published as an appendix to DLA's compilation of systems of records notice."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Individuals receiving training funded or sponsored by the Defense Logistics Agency (DLA) to include DLA employees, Department of Defense military personnel, non-appropriated fund personnel, DLA contractor personnel, and DLA foreign national personnel may be included in the system at some locations."

CATEGORIES OF RECORDS IN THE SYSTEM:

In the first sentence after the phrase "Individual's name, Social Security Number (SSN)," add the phrase "student identification number," to entry.

* * * * *

RETRIEVABILITY:

Delete entry and replace with "Records may be retrieved by name, student identification number, or Social Security Number (SSN)."

SAFEGUARDS:

Delete entry and replace with "Records are maintained in physical and electronic areas accessible only to DLA personnel who must use the records to perform assigned duties. Physical access is limited through the use of locks, guards, card swipe, and other administrative procedures. The electronic records are deployed on accredited systems with access restricted by the use of Common Access Card (CAC) and assigned system roles. The web-based files are encrypted in accordance with approved information assurance protocols. Employees are warned through screen log-on protocols and periodic briefings of the consequences of improper access or use of the data. In addition, users are trained to lock or shutdown their workstations when leaving the work area. During non-duty hours, records are secured in access-controlled buildings, offices, cabinets or computer systems."

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Written inquiries should contain the individual's name, Social Security Number (SSN), home address and telephone number. Current DLA employees may determine whether information about themselves is contained in subsets to the master file by accessing the system through their assigned DLA computer or by contacting their immediate supervisor."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Written inquiries should contain the individual's name, Social Security Number (SSN), home address and telephone number. Current DLA employees may gain access to data contained in subsets to the master file by accessing the system through their assigned DLA computer or by contacting their immediate supervisor."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Information is obtained from the individual, current and past supervisors, personnel offices, educational and training facilities, licensing or certifying entities, the Defense Civilian Personnel Data System (DCPDS) and the Military Online Processing System (MOPS)."

* * * * *

S335.01

SYSTEM NAME:

Training and Employee Development Record System.

SYSTEM LOCATION:

The master file is maintained by the Director, Defense Logistics Agency Training Center, Building 11, Section 5, 3990 E. Broad Street, Columbus, OH 43216–5000.

Subsets of the master file are maintained by DLA Support Services, Business Management Office, 8725 John J. Kingman Road, Stop 6220, Fort Belvoir, VA 22060–6221; the DLA Primary Level Field Activities; and individual supervisors.

Official mailing addresses are published as an appendix to DLA's compilation of systems of records notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals receiving training funded or sponsored by the Defense Logistics Agency (DLA) to include DLA employees, Department of Defense military personnel, non-appropriated fund personnel, DLA contractor personnel, and DLA foreign national personnel may be included in the system at some locations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number (SSN), student identification number, date of birth, e-mail, home addresses; occupational series, grade, and supervisory status; registration and training data, including application or nomination documents, pre- and post-test results, student progress data, start and completion dates, course descriptions, funding sources and costs, student goals, long- and short-term training needs, and related data. The files may contain employee agreements and details on personnel actions taken with respect to individuals receiving apprentice or on-the-job training.

Where training is required for professional licenses, certification, or recertification, the file may include proficiency data in one or more skill areas. Electronic records may contain computer logon and password data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapter 41, Training; E.O. 11348, Providing for the further training of Government employees, as amended by E.O. 12107, Relating to the Civil Service Commission and labor-management in the Federal Service; 5 CFR part 410, Office of Personnel Management-Training and E.O. 9397 (SSN), as amended.

PURPOSE(S):

Information is used to manage and administer training and development programs; to identify individual training needs; to screen and select candidates for training; and for reporting and financial forecasting, tracking, monitoring, assessing, and payment reconciliation purposes. Statistical data, with all personal identifiers removed, are used to compare hours and costs allocated to training among different DLA activities and different types of employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Veterans Affairs for inspecting, surveying, auditing, or evaluating apprentice or on-the-job training programs.

To the Department of Labor for inspecting, surveying, auditing, or evaluating apprentice training programs and other programs under its jurisdiction.

To Federal, state, and local agencies and oversight entities to track, manage, and report on mandatory training requirements and certifications.

To public and private sector educational, training, and conferencing entities for participant enrollment, tracking, evaluation, and payment reconciliation purposes.

To Federal agencies for screening and selecting candidates for training or developmental programs sponsored by the agency.

To Federal oversight agencies for investigating, reviewing, resolving, negotiating, settling, or hearing complaints, grievances, or other matters under its cognizance.

The DoD 'Blanket Routine Uses' also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored on paper and/or on electronic storage media.

RETRIEVABILITY:

Records may be retrieved by name, student identification number, or Social Security Number (SSN).

SAFEGUARDS:

Records are maintained in physical and electronic areas accessible only to DLA personnel who must use the records to perform assigned duties. Physical access is limited through the use of locks, guards, card swipe, and other administrative procedures. The electronic records are deployed on accredited systems with access restricted by the use of Common Access Card (CAC) and assigned system roles. The web-based files are encrypted in accordance with approved information assurance protocols. Employees are warned through screen log-on protocols and periodic briefings of the consequences of improper access or use of the data. In addition, users are trained to lock or shutdown their workstations when leaving the work area. During non-duty hours, records are secured in access-controlled buildings, offices, cabinets or computer systems.

RETENTION AND DISPOSAL:

Training files are destroyed when 5 years old or when superseded, whichever is sooner. Employee agreements, individual training plans, progress reports, and similar records used in intern, upward mobility, career management, and similar developmental training programs are destroyed 1 year after employee has completed the program.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Defense Logistics Agency Training Center, Building 11, Section 5, 3990 E. Broad Street, Columbus, OH 43216–5000 and Staff Director, Business Management Office, DLA Enterprise Support, ATTN: DES–B, 8725 John J. Kingman Road, Stop 6220, Fort Belvoir, VA 22060–6221.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Written inquiries should contain the individual's name, Social Security Number (SSN), home address and telephone number. Current DLA employees may determine whether information about themselves is contained in subsets to the master file by accessing the system through their assigned DLA computer or by contacting their immediate supervisor.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Written inquiries should contain the individual's name, Social Security Number (SSN), home address and telephone number. Current DLA employees may gain access to data contained in subsets to the master file by accessing the system through their assigned DLA computer or by contacting their immediate supervisor.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual, current and past supervisors, personnel offices, educational and training facilities, licensing or certifying entities, the Defense Civilian Personnel Data System (DCPDS) and the Military Online Processing System (MOPS).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2010–9894 Filed 4–28–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2010–HA–0056]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Office of the Secretary of Defense proposes to alter a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action would be effective without further notice on June 1, 2010 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Allard at (703) 588–6830.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on April 16, 2010, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996; 61 FR 6427).

Dated: April 23, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DHA 08

SYSTEM NAME:

Health Affairs Survey Data Base (April 28, 1999; 64 FR 22837).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with "Health Affairs Survey and Study Data Base."

SYSTEM LOCATION:

Delete entry and replace with "Office of the Assistant Secretary of Defense (Health Affairs), TRICARE Management Activity Health Program Analysis and Evaluation, Suite 810, 5111 Leesburg Pike, Skyline Building 5, Falls Church, Virginia 22041–3206."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Uniformed services beneficiaries enrolled in the Defense Eligibility Enrollment Reporting System who are eligible for medical and dental health care; veterans and their dependents; individuals who submit Medicare and/or Medicaid claims and are linked to DoD health care; DoD civilian employees and contractor personnel including contracted providers, and health care workers."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Records in the system include name, address, sponsor and dependent's Social Security Numbers (SSN), family member prefix code, demographics categories that include age, sex, date of birth, telephone number, e-mail address, military rank group officer and enlisted or civilian.

Personal health information and clinical encounter data regarding interactions with health care systems such as diagnoses, procedures, treatments, services, and benefits; self-reported health and health related response datasets such as surveys and focus groups; health care administrative data, such as inpatient, dental, outpatient, and pharmacy utilization rates; budgetary and managerial cost accounting data, such as claims processing, direct and purchased care workload and costs; contingency tracking system data such as deployment status; and health plan eligibility and enrollment data."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. 1071 (NOTE), Annual Beneficiary Survey; 10 U.S.C. Chapter 55, Medical and Dental Care; 42 U.S.C. 11131–11152, Health Care Improvement Act of 1986; 32 CFR 199.17, TRICARE program; 45 CFR parts 160 and 164, General Administrative Requirements and Security and Privacy; DoDD 3216.2, Protection of Human Subjects and Adherence to Ethical Standards in DoD–Supported Research; DoDD 6025.13, Medical Quality Assurance (MQA) in the Military Health System (MHS); and E.O. 9397 (SSN), as amended."

PURPOSE(S):

Delete entry and replace with "To collect, assemble, interpret, analyze, report and publish surveys; research, study, statistical and informational data, in order to improve the quality of DoD health care and the health status, welfare and well-being of the DoD beneficiary population. Uses of identifiable data include primary analysis; secondary analysis; non-response analysis; and cross-mapping analysis. Results will only be reported in the aggregate."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Delete entry and replace with "In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Health and Human Services and/or the Department of Veterans Affairs consistent with their statutory administrative responsibilities pursuant to 10 U.S.C. Chapter 55, Medical and Dental Care, and 38 U.S.C. Chapter 3, Department of Veterans Affairs.

To the Office of Personnel Management for purposes related to DoD Federal employees and/or their health care benefits in DoD.

To State Departments of Health for health care delivery programs, where such programs effect benefits determinations between these Department-level programs, continuity of clinical care, or effect payment for care between Departmental programs inclusive of care provided by commercial entities under contract to these three Departments.

To Academia, non profit and commercial entities, for surveys or research, where such releases are consistent with the mission of the Military Health System and where exchange and coordination of information and data are consistent with the Privacy Act of 1974, the Heath Insurance Portability and Accountability Act of 1996 Privacy and Security Rules, and applicable DoD Information Security regulations.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Office of the Secretary of Defense compilation of systems of records notices apply to this system with the following noted exceptions:

Note: This system of records contains individually identifiable health information. The DoD Health Information Privacy Regulation DoD 6025.18–R issued pursuant to the Health Insurance Portability and Accountability Act of 1996, applies to most health information. DoD 6025.18–R may place additional procedural requirements on the uses and disclosures of such information beyond those found in the Privacy Act of 1974 or mentioned in this system of records notice.

STORAGE:

Delete entry and replace with "Paper and/or electronic storage media."

RETRIEVABILITY:

Delete entry and replace with "Records of beneficiaries may be retrieved by patient identifiers, such as name, address, sponsor and dependent's Social Security Number (SSN), family member prefix code, and demographic categories, such as age, sex, e-mail address, military rank group officer, enlisted, or civilian."

SAFEGUARDS:

Delete entry and replace with "Media, data and/or records are maintained in a controlled area. The computer system is accessible only to authorized personnel. Entry into these areas is restricted to those personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of locks, passwords which are changed periodically, and administrative procedures. The system provides two-factor authentication including Common Access Cards and passwords. Access to personal information is restricted to those who require the data in the performance of the official duties, and have received proper training relative to the Privacy Act of 1974, Health Insurance Portability and Accountability Act of 1996 Privacy and Security Rules, and Information Assurance."

RETENTION AND DISPOSAL:

Delete entry and replace with "Disposition pending. Until the National Archives and Records Administration has approved the retention and disposal of these records, treat them as permanent."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "TRICARE Management Activity, Health Plans Operations/Health Program Analysis and Evaluation, Suite 810, Skyline Building 5, 5111 Leesburg Pike, Falls Church, VA 22041–3206."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system contains information about themselves should address written inquiries to TRICARE Management Activity, Health Plans Operations/Health Program Analysis and Evaluation, Suite 810, Skyline Building 5, 5111 Leesburg Pike, Falls Church, VA 22041–3206.

Written requests for the information should contain the individual's full name, address, last 4 numbers of the Social Security Number (SSN), the name and number of this system of records notice and signature."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records about themselves contained in this system should address written inquiries to TRICARE Management Activity, Attention: Freedom of Information Act Requester Service Center, 16401 East Centretech Parkway Aurora, CO 80011–9066.

Requests should contain the individual's full name, address, last 4 numbers of the Social Security Number (SSN), the name and number of this system of records notice and signature."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Office of the Secretary of Defense rules for accessing records, for contesting contents and appealing initial agency determinations are published in Office of the Secretary of Defense Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Individuals, the Defense Enrollment Eligibility Reporting System, the Uniformed Services medical and dental treatment facilities and facilities contracted by DoD to perform medical care for Military members, former members and dependents."

* * * * *

DHA 08

SYSTEM NAME:

Health Affairs Survey and Study Data Base.

SYSTEM LOCATION:

Office of the Assistant Secretary of Defense (Health Affairs), TRICARE Management Activity Health Program Analysis and Evaluation, Suite 810, 5111 Leesburg Pike, Skyline Building 5, Falls Church, Virginia 22041–3206.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Uniformed services beneficiaries enrolled in the Defense Eligibility Enrollment Reporting System who are eligible for medical and dental health care under 10 U.S.C. Chapter 55; veterans and their dependents; individuals who submit Medicare and/or Medicaid claims and linked to DoD health care; DoD civilian employees and contractor personnel including contracted providers, and health care workers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system include name, address, sponsor and dependents Social Security Number (SSN), family member prefix code, demographics categories that include age, sex, date of birth, telephone number, e-mail address,

military rank group officer and enlisted or civilian.

Personal health information and clinical encounter data regarding interactions with health care systems such as diagnoses, procedures, treatments, services, and benefits; self-reported health and health related response datasets such as surveys and focus groups; health care administrative data, such as inpatient, dental, outpatient, and pharmacy utilization rates; budgetary and managerial cost accounting data, such as claims processing, direct and purchased care workload and costs; contingency tracking system data such as deployment status; and health plan eligibility and enrollment data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. 1071 (NOTE), Annual Beneficiary Survey; 10 U.S.C. Chapter 55, Medical and Dental Care; 42 U.S.C. 11131–11152, Health Care Improvement Act of 1986; 32 CFR 199.17, TRICARE program; 45 CFR parts 160 and 164, General Administrative Requirements and Security and Privacy; DoDD 3216.2, Protection of Human Subjects and Adherence to Ethical Standards in DoD–Supported Research; DoDD 6025.13, Medical Quality Assurance (MQA) in the Military Health System (MHS); and E.O. 9397 (SSN), as amended.

PURPOSE(S):

To collect, assemble, interpret, analyze, report and publish surveys; research, study, statistical and informational data, in order to improve the quality of DoD health care and the health status, welfare and well-being of the DoD beneficiary population. Uses of identifiable data include primary analysis; secondary analysis; non-response analysis; and cross-mapping analysis. Results will only be reported in the aggregate.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Health and Human Services and/or the Department of Veterans Affairs consistent with their statutory administrative responsibilities pursuant to 10 U.S.C. Chapter 55, Medical and Dental Care, and 38 U.S.C. Chapter 3, Department of Veterans Affairs.

To the Office of Personnel Management for purposes related to DoD Federal employees and/or their health care benefits in DoD.

To State Departments of Health for health care delivery programs, where such programs effect benefits determinations between these Department-level programs, continuity of clinical care, or effect payment for care between Departmental programs inclusive of care provided by commercial entities under contract to these three Departments.

To Academia, non profit and commercial entities, for surveys or research, where such releases are consistent with the mission of the Military Health System and where exchange and coordination of information and data are consistent with the Privacy Act of 1974, the Heath Insurance Portability and Accountability Act of 1996 Privacy and Security Rules, and applicable DoD Information Security regulations.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Office of the Secretary of Defense compilation of systems of records notices apply to this system with the following noted exceptions:

Note: This system of records contains individually identifiable health information. The DoD Health Information Privacy Regulation, DoD 6025.18–R issued pursuant to the Health Insurance Portability and Accountability Act of 1996, applies to most health information. DoD 6025.18–R may place additional procedural requirements on the uses and disclosures of such information beyond those found in the Privacy Act of 1974 or mentioned in this system of records notice.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and/or electronic storage media.

RETRIEVABILITY:

Records of beneficiaries may be retrieved by patient identifiers, such as name, address, sponsor and dependent's Social Security Number (SSN), family member prefix code, and demographic categories, such as age, sex, e-mail address, military rank group officer, enlisted, or civilian.

SAFEGUARDS:

Media, data and/or records are maintained in a controlled area. The computer system is accessible only to authorized personnel. Entry into these areas is restricted to those personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of locks, passwords which are changed periodically, and administrative procedures. The system provides two-factor authentication including Common Access Cards and passwords. Access to personal information is restricted to those who require the data in the performance of the official duties, and have received proper training relative to the Privacy Act of 1974, Health Insurance Portability and Accountability Act of 1996 Privacy and Security Rules, and Information Assurance.

RETENTION AND DISPOSAL:

Disposition pending. Until the National Archives and Records Administration has approved the retention and disposal of these records, treat them as permanent.

SYSTEM MANAGER(S) AND ADDRESS:

TRICARE Management Activity, Health Plans Operations/Health Program Analysis and Evaluation, Suite 810, Skyline Building 5, 5111 Leesburg Pike, Falls Church, VA 22041–3206.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system contains information about themselves should address written inquiries to TRICARE Management Activity, Health Plans Operations/Health Program Analysis and Evaluation, Suite 810, Skyline Building 5, 5111 Leesburg Pike, Falls Church, VA 22041–3206.

Written requests should contain the individual's full name, address, Last 4 numbers of the Social Security Number (SSN), the name and number of this system of records notice and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address written inquiries to TRICARE Management Activity, Attention: Freedom of Information Act Requester Service Center, 16401 East Centretech Parkway, Aurora, CO 80011–9066.

Written requests should contain the individual's full name, address, Last 4 numbers of the Social Security Number (SSN), the name and number of this system of records notice and signature.

CONTESTING RECORD PROCEDURES:

The Office of the Secretary of Defense rules for accessing records, for contesting contents and appealing initial agency determinations are published in Office of the Secretary of Defense Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individuals, the Defense Enrollment Eligibility Reporting System, and the Uniformed Services medical and dental treatment facilities and facilities contracted by DoD to perform medical care for Military members, former members and dependents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2010–9893 Filed 4–28–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2010–0012]

Notice of Proposed Information Collection; Comment Request

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Navy's Chief of Information announces the submission of a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 1, 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, 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 or to obtain a copy of the proposal and associated collection instruments, contact Assistant Chief of Information for Community Outreach, Office of the Chief of Navy Information, 2000 Navy Pentagon, Washington, DC 20350–2000.

Title, Form, and OMB Number: U.S. Navy Chief of Information Sponsor Application; OMB Control Number 0703–TBD.

Needs and Uses: This collection of information is necessary to automate an antiquated process facilitating embarks on Navy surface ships and submarines.

Affected Public: Members of the public who accept invitations to embark Navy surface ships and submarines.

Annual Burden Hours: 750.

Number of Respondents: 3000.

Responses per Respondent: 1.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The Navy's Chief of Information proposes the establishment of a centralized system and database for those individuals who are embarking U.S. Navy ships as part of the Navy's Leaders to Sea program. Currently, the execution of this important community outreach program is done by hardcopy forms and fax. The establishment of a centralized system and database will automate the system, significantly improving its efficiency while reducing the overall paperwork required to execute the program.

Dated: April 26, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–9995 Filed 4–28–10; 8:45 am]

BILLING CODE5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2010–0013]

Notice of Proposed Information Collection; Comment Request

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Navy Recruiting Command announces a proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 28, 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, 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 additional information or to obtain a copy of the proposal and associated collection instruments, write to Commander, Navy Recruiting Command (00SD), 5722 Integrity Drive, Millington, TN 38054–5057, or contact Mr. Kenneth Saxion at (901) 874–9045.

Title, Form Number, and OMB Number: "Application Processing and Summary Record; NAVCRUIT Form 1131/238 replacing the Application for Commission in the U.S. Navy/U.S. Navy Reserve; OMB Control Number 0703–0029.

Needs and Uses: All persons interested in entering the U.S. Navy or U.S. Navy Reserve, in a commissioned status must provide various personal data in order for a Selection Board to determine their qualifications for naval service and for specific fields of endeavor which the applicant intends to pursue. This information is used to recruit and select applicants who are qualified for commission in the U.S. Navy or U.S. Navy Reserve.

Affected Public: Individuals or households.

Annual Burden Hours: 24,000.

Number of Respondents: 12,000.

Responses per Respondent: 1.

Average Burden per Response: 2 hours.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This new form replaces the Application for Commission in the U.S. Navy/U.S. Navy Reserve, and collects less information than the current form requires. The reason for implementing this new form is that even though most of the information is already gathered by the Standard Form 86, Questionnaire for National Security Positions, OMB Control Number 3206–0005, and is already in the system there are still several bits of information needed for the boards to base their selection decisions on.

Dated: April 26, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–10007 Filed 4–28–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2010–0014]

Proposed Collection; Comment Request

AGENCY: Marine Corps Marathon, Marine Corps Base Quantico, Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Marine Corps Marathon, Marine Corps Base Quantico announces the proposed revision of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 28, 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, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Marine Corps Marathon Office, Attn: Angela Huff, P.O. Box 188, Quantico, VA 22134, or call the Marine Corps Marathon Office at (703) 432–1159.

Title and OMB Number: Marine Corps Marathon Race Applications; OMB Number 0703–0053.

Needs and Uses: The information collection requirement is necessary to obtain and record the information of runners to conduct the races, for timing purposes and for statistical use.

Affected Public: Individuals or households.

Annual Burden Hours: 4405.34.

Number of Respondents: 52,848.

Responses per Respondent: 1.

Average Burden per Response: 5 minutes.

Frequency: Annually.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are runners who are signing up for the Marine Corps Marathon races held by the Marine Corps Marathon office, Marine Corps Base Quantico. The seven races defined under OMB number 0703–0053 are the Marine Corps Marathon, the Marine Corps Marathon 10K, and the Marine Corps Marathon Healthy Kids Fun Run, Marine Corps Historic Half, Semper Fred 5K, Marine Corps Marathon Race Series to include Run 2 Register, Run Amuck, Run Stock and Crossroads 12K/5K. The additional race to be added to the OMB number is the Crossroads 17.75. The Marine Corps Marathon office records all runners to conduct the races in preparation and execution of the races and to record statistical information for sponsors, media and for economic impact studies. Collecting this data of the runners is essential for putting on the races.

Dated: April 26, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–9993 Filed 4–28–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2010–0014]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to delete a system of records.

SUMMARY: The Department of the Air Force proposes to delete a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on June 1, 2010 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Charles J. Shedrick, 703–696–6488.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the

Federal Register and are available from the Department of the Air Force Privacy Office, Air Force Privacy Act Office, Office of Warfighting Integration and Chief Information officer, ATTN: SAF/XCPPI, 1800 Air Force Pentagon, Washington DC 20330–1800.

The Department the Air Force proposes to delete one system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: April 26, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Deletion: F036 AFMC B

SYSTEM NAME:

Systems Acquisition Schools Student Records (June 11, 1997; 62 FR 31793).

REASON:

Records are no longer in use. Records have been destroyed in accordance with the National Achieves and Records Administration system of record notice retention and disposal requirements.

[FR Doc. 2010–9994 Filed 4–28–10; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2010–0012]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to delete a system of records.

SUMMARY: The Department of the Air Force proposes to delete a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on June 1, 2010 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by dock number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Charles J. Shedrick, 703–696–6488.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the Department of the Air Force Privacy Office, Air Force Privacy Act Office, Office of Warfighting Integration and Chief Information officer, ATTN: SAF/XCPPI, 1800 Air Force Pentagon, Washington, DC 20330–1800.

The Department the Air Force proposes to delete one system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: April 23, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Deletion: F024 AF AMC A

SYSTEM NAME:

Global Air Transportation Execution System (GATES) (August 3, 1999; 64 FR 42098).

REASON:

The Global Air Transportation Execution System (GATES) is now covered under system of records notice F024 AF USTRANSCOM D DoD, Defense Transportation System Records (November 12, 2008; 73 FR 66872); therefore the notice can be deleted.

[FR Doc. 2010–9895 Filed 4–28–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2010–0015]

Privacy Act of 1974; System of Records

AGENCY: U.S. Marine Corps, Department of the Navy, DoD.

ACTION: Notice to add a system of records.

SUMMARY: The U.S. Marine Corps proposes to add a system of records to its inventory of record systems to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on June 1, 2010 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.
- *Instructions:* All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Tracy Ross at (703) 614–4008.

SUPPLEMENTARY INFORMATION: The U.S. Marine Corps system of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from Headquarters, U.S. Marine Corps, FOIA/PA Section (ARSF), 2 Navy Annex, Room 3134, Washington, DC 20380–1775.

The proposed system report, as required by 5 U.S.C. 552a(r), of the Privacy Act of 1974, as amended, was submitted on April 16, 2010, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated

February 8, 1996 (February 20, 1996; 61 FR 6427).

Dated: April 26, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

M01040–3

SYSTEM NAME:

Marine Corps Manpower Management Information System Records.

SYSTEM LOCATION:

Primary locations:

Defense Information Support Agency (DISA) Defense Enterprise Computing Center (DECC), 4300 Goodfellow Boulevard, Building 103, Post E–20, St. Louis, MO 63120–1703.

Defense Finance and Accounting Service-Kansas City Center, 1500 East Bannister Road, Kansas City, MO 64197–0901.

Technology Services Organization (TSO), 1500 East Bannister Road, Kansas City, MO 64197–0901.

Manpower Information Systems Support Activity (MISSA), 1500 East Bannister Road, Kansas City, MO 64197–0901.

Headquarters Marine Corps (HQMC), Manpower Information Systems Division (MI), at the James Wesley Marsh Center, 3280 Russell Road, Marine Corps Base (MCB), Quantico, VA 22134–5103.

ODSE: Marine Corps Base, Camp S.D. Butler, Unit 35002, Okinawa, Japan FPO AP 96373–5002.

SPA: Headquarters Marine Corps (HQMC), Information Systems Management Branch (ARI), Henderson Hall, Arlington, VA 22214–5001.

Decentralized segments:

Manpower Information System Support Office-02, Marine Corps Base, Camp LeJeune, NC 28542–5000.

Manpower Information System Support Office-03, Marine Corps Base, Camp Pendleton, CA 92055–5000.

Manpower Information System Support Office-06, Marine Corps Base, Hawaii, Kaneohe Bay, HI 96863–5000.

Manpower Information System Support Office-09, Headquarters, U.S. Marine Corps, Washington, DC 20380–1775.

Manpower Information System Support Office-16 and 17, Marine Corps Support Activity, Kansas City, MO 64197–0001.

Manpower Information System Support Office-11, Headquarters, Washington, DC 20380–1775.

Manpower Information System Support Office-27, Marine Corps Base, Camp S.D. Butler, Okinawa, JA, FPO AP 98773–5001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty, Reserves and retired Marines; dependents of active duty, Reserve and retired Marines; other DoD Military personnel, government employees and Foreign Military Service personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal Information: Individual's name, rank/grade, Social Security Number (SSN), promotion photos, date of birth, blood type, hair and eye color, height and weight, citizenship, population group, gender, ethnic group, marital status, place of birth, home of record, records of emergency data.

Personnel/Duty Related Information: Enlistment contract or officer acceptance form identification, leave account information, component code, duty status codes, order processing data, duty station, individual manpower activation/mobilization data, deployment information, unit information, temporary duty and Fleet Assistant Program data, overseas deployment data to include personal location by DoD latitude and longitude and/or military grid information, personnel assignment data, employment and job related information and history, work title, work address and related work contact information (*e.g.,* phone and fax numbers, E-mail address), supervisor's name and related contact information.

Medical Related Information: Limited medical data to include medical examinations, test results, shot history, sick in quarters status, medical evacuation information and hospitalization data. Wounded Warrior Regiment (WWR) data to include Line of Duty determinations, Incapacitation Pay Benefits and Medical Hold requests and status.

Education and Training Information: High school data, test scores/information, language proficiency, military/civilian off-duty education, training information to include marksmanship data, physical fitness data, swim qualifications, military occupational specialties (MOS), military skills and schools, weight control and military appearance data.

Performance/Career Related Information: Awards, performance evaluation data to include fitness reports, derogatory comments, disciplinary actions, rebuttals and their decisions, combat tour information, aviation/pilot flying time data, reserve units data, drill dates and muster data, lineal precedence number, limited duty officer and warrant officer footnotes, separation document code, conduct and proficiency marks, promotional data, years in service, commanding officer assignment/relief data, joint military occupational specialty data, judicial proceedings and courts martial data.

Pay and Entitlements Information: Pay data including the leave and earnings statement which may include base pay, allowances, allotments, bond authorization, health care coverage, dental coverage (if applicable), special pay and bonus data, federal and state withholding/income tax data, Federal Deposit Insurance Corporation contributions, Medicare, Service members' Group Life Insurance deductions, leave account, wage and summaries, reserve drill pay, reserve Active Training (AT) pay, direct deposit and Electronic Fund Transfer (EFT) data, court ordered garnishment of wages and other personnel/pay management data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps; 10 U.S.C. 1074f, Medical Tracking System for Members Deployed Overseas; 32 CFR 64.4, Management and Mobilization; DoD Dir 1215.13, Reserve Component Member Participation Policy; DoD Instruction 3001.02, Personnel Accountability in Conjunction with Natural and Manmade Disasters; CJCSM 3150.13B, Joint Reporting Structure—Personnel Manual; DoD Instruction 6490.03, Deployment Health; MCMEDS: SECNAVINST 1770.3D, Management and Disposition of Incapacitation Benefits for Members of the Navy and Marine Corps Reserve Components (Renamed Line of Duty (LOD)); and MCO 7220.50, Marine Corps Policy for paying Reserve Marines; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

The Marine Corps Manpower Management Information System (MCMMIS) provides the Marine Corps with the ability to support and manage all aspects of the Human Resource Development Process (HRDP) of all Active duty and Reserve Marines. The system also includes the capability to report certain entries to enhance personnel management for reserve and retired Marines, Government employees working for the Marine Corps, other DoD military personnel, as well as Foreign Military Service personnel who are attached to Marine Corps commands. In addition, it has the capability to provide simulation, analysis and forecasting tools to capture and process manpower information, making data visible to the appropriate

Marine Corps decision makers, as well as providing statutory and regulatory management reports to higher headquarters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To officials and employees of the American Red Cross and the Navy Relief Society in the performance of their duties. Access will be limited to those portions of the member's record required to effectively assist the member.

To officials and employees of federal, state and local government, through official request for information with respect to law enforcement, investigatory procedures, criminal prosecution, civil court action, Congressional inquiries and regulatory order.

To officials and employees of the Department of Veterans Affairs and civilian health and dental care providers upon request, in the performance of their official duties related to the management of incapacitation pay and benefits for injured reservists.

Note: This system of records contains individually identifiable health information. The DoD Health Information Privacy Regulation (DoD 6025.18–R) issued pursuant to the Health Insurance Portability and Accountability Act of 1996, applies to most such health information. DoD 6025.18–R may place additional procedural requirements on the uses and disclosures of such information beyond those found in the Privacy Act of 1974 or mentioned in this system of records notice.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Marine Corps' compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media and paper records in file folders.

RETRIEVABILITY:

Records are retrieved by name and/or Social Security Number (SSN).

SAFEGUARDS:

Login to systems and network requires use of the DoD Common Access Card (CAC). Public Key Infrastructure (PKI) network login may be required to allow for documents to be digitally signed and encrypted and/or the receiving of encrypted mail. Official users without issuance of a CAC must use the Total Force Administration System—Marine On-Line (TFAS—MOL) Web portal to access the system. The TFAS MOL account holders are authenticated and provided access after registering for an account and use a user name and strong password login verification. Access to server rooms is strictly controlled by the hosting facility personnel. At a minimum, cipher locks, access rosters, sign-in sign-out procedures, escort and supervision of all maintenance personnel and physical security checks are provided on a routine basis. Physical security of buildings after normal working hours, are provided by independent security guards or military police.

RETENTION AND DISPOSAL:

Disposition pending (until the National Archives and Records Administration approves retention and disposal schedule, records will be treated as permanent).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Defense Finance and Accounting Service—Cleveland Center, 1240 E. 9th Street, Cleveland, OH 44199–2055.

Director, Manpower Information Systems Support Activity, 1500 East Bannister Road, Kansas City, MO 64197–0901.

Director Manpower Information (MI), Manpower and Reserve Affairs (M&RA), James Wesley Marsh Center, 3280 Russell Road, Quantico, VA 22134–5103.

Director, Manpower Personnel Support Branch (MMSB), Headquarters Marine Corps (HQMC), Manpower & Reserve Affairs (M&RA), James Wesley Marsh Center, 3280 Russell Road, MCB Quantico, VA 22134–5103.

NOTIFICATION PROCEDURE:

Active Duty/Reserve Members seeking to determine whether pay information about themselves is contained in this system of records should address written inquiries to the member's local disbursing office.

Active Duty/Reserve Members seeking to determine whether personnel information about themselves is contained in this system of records should address written inquiries to the member's immediate commanding officer.

Retired Members seeking to determine whether pay and personnel information about themselves is contained in this system of records should address written inquiries to the Commandant of the Marine Corps, (Code MIF), Headquarters, U.S. Marine Corps, Washington, DC 20380–1775.

Individual should provide their full name, Social Security Number (SSN), and the request must be signed.

In order to personally visit the above addresses and obtain information, individuals must present a military identification card, a driver's license, or other proof of identity.

RECORD ACCESS PROCEDURES:

Active Duty/Reserve Members seeking to access pay information about themselves contained in this system of records should address written inquiries to the member's local disbursing office.

Active Duty/Reserve Members seeking access to personnel information about themselves contained in this system of records should address written inquiries to the member's immediate commanding officer.

Retired Members seeking to access pay and personnel information about themselves contained in this system of records should address written inquiries to the Commandant of the Marine Corps, (Code MIF), Headquarters, U.S. Marine Corps, Washington, DC 20380–1775.

Individual should provide their full name, Social Security Number (SSN), and the request must be signed.

In order to personally visit the above addresses and obtain information, individuals must present a military identification card, a driver's license, or other proof of identity.

CONTESTING RECORD PROCEDURES:

The Marine Corps rules for accessing records, for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

The Navy's rules for accessing records, for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual; Headquarters, Marine Corps; Defense Enrollment Eligibility Reporting System (DEERS); Schools and Educational Institutions; Navy Central Adjudication Facility (DoNCAF); Joint Personnel Adjudication System (JPAS); Internal Revenue Service (IRS); Veterans Administration (VA); Social Security Administration (SSA); Navy & Marine Corps Relief Society (NMCRS); Morale

Welfare and Recreation (MWR); Department of Treasury (DOT); National Finance Center (NFC); Federal Reserve Bank (FSB); Army & Air Force Exchange Services (AAFES); medical and dental treatment facilities/care givers; Standard Accounting Budget Reporting System (SABRS); Defense Travel System (DTS); Defense Manpower Data Center (DMDC); and Department of Agriculture (DoA).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2010–9997 Filed 4–28–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2010–0013]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Air Force is proposing to alter a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective on June 1, 2010 unless comments are received that would result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Charles J. Shedrick, 703–696–6488.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the Department of the Air Force Privacy Office, Air Force Privacy Act Office, Office of Warfighting Integration and Chief Information Officer, ATTN: SAF/XCPPI, 1800 Air Force Pentagon, Washington, DC 20330–1800.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act, were submitted on April 16, 2010, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget pursuant to paragraph 4c of Appendix I to Office of Management and Budget Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996; 61 FR 6427).

Dated: April 26, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F036 AF PC U

SYSTEM NAME:

Air Force Automated Education Management System (AFAEMS) (January 28, 2002; 67 FR 3884)

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Headquarters United States Air Force, Directorate of Personnel Force Development, 1040 Air Force Pentagon, Washington, DC 20330–1040;

Office of the Secretary of Defense, Personnel and Readiness, Military Family and Community Programs, 1560 Wilson Boulevard, Ste 1200, Arlington VA 22209–2463."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "All officers, airmen and qualified DoD civilians who participate in the Education Services Program and the Tuition Assistance Program. All qualified spouses of military service members who participate in the Military Spouse Career Advancement Account Program (MSCAAP)."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Name, Social Security Number (SSN), document number; pertinent education data such as forms for Air Force, Active Duty Service Commitment; Notice of Student Withdrawal/Non-completion; Individual Record-Education Services Program; Academic Education Data; Authority for Tuition Assistance—Education Services Program; Authority for Financial Assistance—Military Spouse Career Advancement Account Program; Cash Collection for Voucher; Application for the Evaluation of Educational Experiences During Military Service; Pay Adjustment Authorization; Department of Veterans Affairs Application for Educational Assistance; Service person's Application for Educational Benefits; Academic evaluations and/or transcripts from schools; and Educational test results from testing agencies."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 8013, Secretary of the Air Force; Air Force Instruction 36–2306, Operation and Administration of the Air Force Education Services Program, Public Law: 110–417 and E.O. 9397 (SSN), as amended."

PURPOSE(S):

Delete entry and replace with "Provides a record of education endeavors and progress of Air Force personnel and military spouses participating in education services and MSCAAP Programs; to manage the tuition assistance program and to track enrollments and funding."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with "In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To civilian schools for the purposes of ensuring correct enrollment and billing information.

The DoD 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system."

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with "Data stored digitally within the system is retained only for the period required to satisfy recurring processing requirements and/or historical requirements. Backup data files will be retained for a period not to exceed 45 days. Backup files are maintained only for system restoration and are not to be used to retrieve individual records. Computer records are destroyed by erasing, deleting or overwriting. Records are retained and disposed of in the following ways:

For records pertaining to the individual's education level and progress: Give to individual when released from EAD, discharged, or destroy when no longer on active duty in the MSCAAP program. For records pertaining to requests for tuition assistance, records supporting consolidation grade sheets, and cases of non-compliance or failure: Destroy after invoices have been paid and final grades have been recorded in Individual Record Education Services form.

For records pertaining to funding documents, appropriation controls, supporting documents for monitoring obligations: Destroy two years after document's fiscal year appropriation has ended its 'expired year' status and applicable fiscal year appropriation has been cancelled."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Chief, Voluntary Education Branch, Education Division, Directorate of Personnel Force Development, Headquarters United States Air Force (HQ USAF/A1DL), 1040 Air Force Pentagon, Washington, DC 20330–1040."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to or visit the agency officials at the respective installation education center. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

Request must contain full name, Social Security Number (SSN), and current mailing address."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system of records should address written inquiries to AF/A1DL, 1040 Air Force Pentagon, Washington, DC 20330–1040.

Request must contain full name, Social Security Number (SSN), and current mailing address."

* * * * *

F036 AF PC U

SYSTEM NAME:

Air Force Automated Education Management System (AFAEMS).

SYSTEM LOCATION:

Headquarters United States Air Force, Directorate of Personnel Force Development, 1040 Air Force Pentagon, Washington, DC 20330–1040;

Office of the Secretary of Defense, Personnel and Readiness, Military Family and Community Programs, 1560 Wilson Boulevard, Ste. 1200, Arlington, VA 22209–2463.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All officers, airmen and qualified DoD Civilians who participate in the Education Services Program and the Tuition Assistance Program.

All qualified spouses of military service members who participate in the Military Spouse Career Advancement Account Program (MSCAAP).

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number (SSN), document number; pertinent education data such as forms for Air Force, Active Duty Service Commitment; Notice of Student Withdrawal/Non-completion; Individual Record—Education Services Program; Academic Education Data; Authority for Tuition Assistance—Education Services Program; Authority for Financial Assistance—Military Spouse Career Advancement Account Program; Cash Collection for Voucher; Application for the Evaluation of Educational Experiences During Military Service; Pay Adjustment Authorization; Department of Veterans Affairs Application for Educational Assistance; Service person's Application for Educational Benefits; Academic evaluations and/or transcripts from schools; and Educational test results from testing agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; Air Force Instruction 36–2306, Operation and Administration of the Air Force Education Services Program; Public Law No.: 110–417, National Defense Authorization Act for Fiscal Year 2009; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

Provides a record of education endeavors and progress of Air Force personnel and military spouses participating in education services and MSCAAP Programs; to manage the tuition assistance program and to track enrollments and funding.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Records may be disclosed to civilian schools for the purposes of ensuring correct enrollment and billing information.

The DoD 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic storage media.

RETRIEVABILITY:

Retrieved by name, Social Security Number (SSN), or document number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by persons responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms, and in computer storage devices and protected by computer system software.

RETENTION AND DISPOSAL:

Data stored digitally within the system is retained only for the period required to satisfy recurring processing requirements and/or historical requirements. Backup data files will be retained for a period not to exceed 45 days. Backup files are maintained only for system restoration and are not to be used to retrieve individual records. Computer records are destroyed by erasing, deleting or overwriting. Records are retained and disposed of in the following ways:

(1) For records pertaining to the individual's education level and progress: Give to individual when released from EAD, discharged, or destroy when no longer on active duty or active in the MSCAAP program. For records pertaining to requests for tuition assistance, records supporting consolidation grade sheets, and cases of non-compliance or failure: Destroy after invoices have been paid and final grades have been recorded in Individual Record Education Services form.

(2) For records pertaining to funding documents, appropriation controls, supporting documents for monitoring obligations: Destroy two years after document's fiscal year appropriation has ended its 'expired year' status and applicable fiscal year appropriation has been cancelled.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Voluntary Education Branch, Education Division, Directorate of

Personnel Force Development, Headquarters United States Air Force (HQ USAF/A1DL), 1040 Air Force Pentagon, Washington, DC 20330–1040.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to or visit the agency officials at the respective installation education center. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

Request must contain full name, Social Security Number (SSN), and current mailing address.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to AF/A1DL, 1040 Air Force Pentagon, Washington, DC 20330–1040.

Request must contain full name, Social Security Number (SSN), and current mailing address.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, for contesting contents and appealing initial agency determinations are published in Air Force Instruction 37–132; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Data gathered from the individual, data gathered from other personnel records, transcripts and/or evaluations from schools and test results from testing agencies. Education, training and personnel information is obtained from approved automated system interfaces.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2010–9999 Filed 4–28–10; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 1, 2010.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or e-mailed to *oira_submission@omb.eop.gov* with a cc: to *ICDocketMgr@ed.gov*.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: April 26, 2010.

James Hyler,

Acting Director, Information Collection Clearance Divisions, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Extension.
Title: Study of the Program for Infant Toddler Care.
Frequency: Once.
Affected Public: Individuals or household.
Reporting and Recordkeeping Hour Burden:
Responses: 3,722.
Burden Hours: 2,298.

Abstract: The current OMB package requests a three month extension for the clearance for data collection instruments to be used in the Study of the Program for Infant Toddler Care (PITC). This study is one of the rigorous research studies of REL West (the Regional Educational Laboratory—West) and will measure the impact of the PITC on child care quality and children's development. The evaluation is conducted by Berkeley Policy Associates in partnership with the University of Texas at Austin and SRM Boulder. Evaluation measures include baseline and follow-up questionnaires for parents, programs, and caregivers; baseline and follow-up program observations; and two rounds of child observations/interviews to measure children's language, social and cognitive development. Baseline data collection took place 2007; follow-up data collection took place in 2008, 2009, and will be completed in 2010.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the "Browse Pending Collections" link and by clicking on link number 4224. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2010–9970 Filed 4–28–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 28, 2010.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and

Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: April 26, 2010.

James Hyler,

Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: An Impact Evaluation of the Teacher Incentive Fund (TIF).

Frequency: On Occasion.

Affected Public: Individuals or household; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden

Responses: 60.
Burden Hours: 740.

Abstract: This is the first submission of a two-stage clearance request for approval of recruitment activities that will be used to support An Impact Evaluation of the Teacher Incentive Fund (TIF). The evaluation will estimate the impact of the differentiated pay component of the TIF program on student achievement and teacher and principal quality and retention. In addition, the evaluation will provide descriptive information of the programs implementation, grantee challenges, and grantee responses to challenges.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the "Browse Pending Collections" link and by clicking on link number 4285. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2010–9971 Filed 4–28–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.120A]

Minority Science and Engineering Improvement Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice of intent to fund down the fiscal year (FY) 2009 grant slate for the Minority Science and Engineering Improvement Program.

SUMMARY: The Secretary intends to use the grant slate developed in FY 2009 for the Minority Science and Engineering Improvement Program (MSEIP), authorized by Title III, Part E of the Higher Education Act of 1965, as amended (HEA), to fund down the FY 2009 grant slate to make new grant awards in FY 2010. The Secretary takes this action because a significant number of high-quality applications remain on last year's grant slate. We expect to use an estimated $4,069,676 for new awards in FY 2010.

FOR FURTHER INFORMATION CONTACT: Karen W. Johnson, U.S. Department of Education, 1990 K Street, NW., 6th Floor, Washington, DC 20006–6450. Telephone: (202) 502–7642 or via Internet: *karen.johnson@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 2009, we published a notice in the **Federal Register** (74 FR 14790) inviting applications for new awards under MSEIP.

In response to this notice, we received a significant number of applications for grants under MSEIP in FY 2009 and funded 16 new grants. Because such a large number of high-quality applications were received, many applications that were awarded high scores by peer reviewers did not receive funding in FY 2009.

In order to conserve funding that would have been required for a peer review of new applications submitted under this program, we intend to select grantees in FY 2010 from the existing slate of applicants. This slate was developed during the FY 2009 competition using the competitive preference priorities, invitational priorities, selection criteria, and requirements referenced in the April 1, 2009 notice.

Program Authority: 20 U.S.C. 1067–1067k.

Electronic Access to This Document

You can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on the GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Delegation of Authority: The Secretary of Education has delegated authority to Daniel T. Madzelan, Director, Forecasting and Policy Analysis for the Office of Postsecondary Education, to perform the functions and duties of the

Assistant Secretary for Postsecondary Education.

Dated: April 23, 2010.

Daniel T. Madzelan,

Director, Forecasting and Policy Analysis.

[FR Doc. 2010–9907 Filed 4–28–10; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Proposed Notice and Comment Policy Version 2.0

AGENCY: U.S. Election Assistance Commission.

ACTION: Notice and request for public comment on Proposed Notice and Comment Policy 2.0.

SUMMARY: The U.S. Election Assistance Commission (EAC) seeks public comment on the Proposed Notice and Comment Policy 2.0. EAC's current Notice and Comment Policy is to provide effective notice for a period of public comment on all policies being considered for adoption by the EAC, that are not subject to notice and comment under any Federal statute. The policy requires action within specified time periods to permit as much public notice as possible. Because of the firm deadlines, the current policy limits EAC's ability to address the rare situations that require swift action. The proposed policy amends the Notice and Comment policy to provide for unforeseeable circumstances that may require deviation from the default timelines indicated.

DATES: Written comments must be submitted on or before 4 p.m. EDT on June 1, 2010.

Comments: Public comments are invited on the information contained in the policy. Comments on the proposed policy should be submitted electronically to *HAVAcomments@eac.gov.* Written comments on the proposed policy can also be sent to the U.S. Election Assistance Commission, 1201 New York Avenue, NW., Suite 300, Washington, DC 20005, ATTN: Proposed Notice and Comment Policy.

Obtaining a Copy of the Policy: To obtain a free copy of the policy: (1) Access the EAC Web site at *http://www.eac.gov;* (2) write to the EAC (including your address and phone number) at U.S. Election Assistance Commission, 1201 New York Avenue, NW., Suite 300, Washington, DC 20005, ATTN: Proposed Notice and Comment Policy.

FOR FURTHER INFORMATION CONTACT: Andrew Guggenheim or Tamar Nedzar, Election Assistance Commission, 1201 New York Avenue, NW., Suite 300, Washington, DC 20005; Telephone: 202–566–3100.

Donetta L. Davidson,

Chair, U.S. Election Assistance Commission.

[FR Doc. 2010–9914 Filed 4–28–10; 8:45 am]

BILLING CODE 6820–KF–P

ELECTION ASSISTANCE COMMISSION

Proposed Privacy Policy Statement

AGENCY: U.S. Election Assistance Commission.

ACTION: Notice and request for public comment on Proposed Privacy Policy Statement.

SUMMARY: The U.S. Election Assistance Commission (EAC) seeks public comment on the Proposed Privacy Policy Statement. OMB Memorandum M–99–18 requires, among other things, that Federal agencies post on their Web sites a privacy policy statement concerning how and when an agency collects information related to an individual's use of the agency Web site. These statements are intended to inform the public of government-wide policies and how each agency implements those policies relative to Web site users' information. Most of the practices discussed in proposed policy statement are required by statute or regulation. As a result, some portions of the proposed policy may not be amended. However, EAC invites comment and will consider amendments to elements that are not required by statute or regulation.

DATES: Written comments must be submitted on or before 4 p.m. EDT on June 1, 2010.

Comments: Public comments are invited on the information contained in the policy. Comments on the proposed policy should be submitted electronically to *HAVAcomments@eac.gov.* Written comments on the proposed policy can also be sent to the U.S. Election Assistance Commission, 1201 New York Avenue, NW., Suite 300, Washington, DC 20005, ATTN: Proposed Privacy Policy Statement.

Obtaining a Copy of the Policy: To obtain a free copy of the policy: (1) Access the EAC Web site at *http://www.eac.gov;* (2) write to the EAC (including your address and phone number) at U.S. Election Assistance Commission, 1201 New York Avenue, NW., Suite 300, Washington, DC 20005, ATTN: Proposed Privacy Policy Statement.

FOR FURTHER INFORMATION CONTACT: Andrew Guggenheim or Tamar Nedzar, Election Assistance Commission, 1201 New York Avenue, NW., Suite 300, Washington, DC 20005; Telephone: 202–566–3100.

Donetta L. Davidson,

Chair, U.S. Election Assistance Commission.

[FR Doc. 2010–9913 Filed 4–28–10; 8:45 am]

BILLING CODE 6820–KF–P

ELECTION ASSISTANCE COMMISSION

Proposed Rule of Agency Procedure No. 1: Procedures for Voting by Circulation Version 2.0

AGENCY: U.S. Election Assistance Commission.

ACTION: Notice and request for public comment on Proposed Rule of Agency Procedure No. 1: Procedures for Voting by Circulation Version 2.0.

SUMMARY: The U.S. Election Assistance Commission (EAC) seeks public comment on Proposed Rule of Agency Procedure No. 1: Procedures for Voting by Circulation Version 2.0. EAC's current Proposed Rule of Agency Procedure No. 1: Procedures for Voting by Circulation provide the public with the process, including timelines on how EAC Commissioners vote to approve matters requiring formal Commission action that has not been placed on a meeting agenda. The policy requires action within specified time periods to allow a thorough and predictable time period for EAC Commissioners to consider the matter. Because of the firm deadlines, the current policy limits EAC's ability to address the rare situations that require swift action. The proposed policy amends the Rule of Agency Procedure No. 1: Procedures for Voting by Circulation to provide for unforeseeable circumstances that may require deviation from the default timelines indicated.

DATES: Written comments must be submitted on or before 4 p.m. EDT on June 1, 2010.

Comments: Public comments are invited on the information contained in the policy. Comments on the proposed policy should be submitted electronically to *HAVAcomments@eac.gov.* Written comments on the proposed policy can also be sent to the U.S. Election Assistance Commission, 1201 New York Avenue, NW., Suite 300, Washington, DC 20005, ATTN: Proposed Rule of Agency Procedure No. 1: Procedures for Voting by Circulation Version 2.0.

Obtaining a Copy of the Policy: To obtain a free copy of the policy: (1)

Access the EAC Web site at *http://www.eac.gov;* (2) write to the EAC (including your address and phone number) at U.S. Election Assistance Commission, 1201 New York Avenue, NW., Suite 300, Washington, DC 20005, ATTN: Proposed Rule of Agency Procedure No. 1: Procedures for Voting by Circulation Version 2.0.

FOR FURTHER INFORMATION CONTACT: Andrew Guggenheim or Tamar Nedzar, Election Assistance Commission, 1201 New York Avenue, NW., Suite 300, Washington, DC 20005; Telephone: 202–566–3100.

Donetta L. Davidson,

Chair, U.S. Election Assistance Commission.

[FR Doc. 2010–9911 Filed 4–28–10; 8:45 am]

BILLING CODE 6820–KF–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection

AGENCY: U.S. Department of Energy.

ACTION: Notice and request for OMB review and comment.

SUMMARY: The Department of Energy (DOE) has submitted to the Office of Management and Budget (OMB) for clearance, a proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995. The In-Vehicle Driver Feedback study will enable the Department of Energy to establish a rigorous scientific basis for informing consumers about the potential fuel economy benefits of in-vehicle fuel economy feedback devices. The target population consists of 150 volunteer households who are AAA insurance policy holders who carry minimum automobile insurance coverage and hold a valid driver's license. If this testing confirms that fuel economy feedback devices can enable drivers to achieve measurable improvements in fuel economy, the information will be made available to the general public via the Joint Department of Energy and Environmental Protection Agency Web site, *http://www.fueleconomy.gov*.

DATES: Comments regarding this collection must be received on or before June 1, 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, please advise the DOE Desk Officer at OMB of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4650.

ADDRESSES: Written comments should be sent to the DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street, NW., Washington, DC 20503; and to Mr. Dennis A. Smith, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, EE–2G, 1000 Independence Avenue, SW., Washington, DC 20585–0121, Phone: 202–586–1791, Fax: 202–586–2476,
E-mail: *dennis.a.smith@ee.doe.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis A. Smith, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, EE–2G, 1000 Independence Avenue, SW., Washington, DC 20585–0121, Phone: 202–586–1791, Fax: 202–586–2476, E-mail: *dennis.a.smith@ee.doe.gov*.

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) *OMB No.:* New; (2) *Information Collection Request Title:* U.S. Department of Energy Test of Potential Fuel Economy Benefits of In-Vehicle Driver Feedback Devices; (3) *Type of Request:* New collection; (4) *Purpose:* The In-Vehicle Driver Feedback Study will evaluate driving behaviors and the effect fuel economy feedback devices will have in changing those behaviors. The data derived from this study will be used to provide the public with information that will enable them to achieve better fuel economy and thereby enable them to save money on fuel consumption which will therefore enable us to reduce greenhouse gas emissions and thereby reduce petroleum consumption. The information obtained via this collection will be made available to the general public via the DOE Sponsored Fuel Economy Guide and associated Web site, *http://www.fueleconomy.gov*. AAA of Northern California will ask for volunteers for this study. These volunteers will be chosen based on demographics, geography, and ownership of vehicles which currently do not display fuel-economy data; (5) *Estimated Number of Respondents:* 150 (not an annual collection); (6) *Estimated Number of Total Responses:* 150; (7) *Estimated Number of Burden Hours:* 300; (8) Estimated Reporting and Recordkeeping Cost Burden: $350,000.00.

Statutory Authority: U.S.C. 16191; 49 U.S.C. 32908(c)–(3) and (g)(2)(A).

Issued in Washington, DC, on April 20, 2010.

Dennis A. Smith,

National Clean Cities Director, Office of Vehicle Technologies, Energy Efficiency and Renewble Energy, U.S. Department of Energy.

[FR Doc. 2010–9959 Filed 4–28–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–365]

Application To Export Electric Energy; Centre Lane Trading Limited

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: Centre Lane Trading Limited (CLT) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or requests to intervene must be submitted on or before June 1, 2010.

ADDRESSES: Comments, protests, or requests to intervene should be addressed as follows: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (FAX 202–586–8008).

FOR FURTHER INFORMATION CONTACT: Christopher Lawrence (Program Office), 202–586–5260 or Michael Skinker (Program Attorney), 202–586–2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the FPA (16 U.S.C. 824a(e)).

On April 20, 2010, DOE received an application from CLT for authority to transmit electric energy from the United States to Canada as a power marketer using existing international transmission facilities for five years. CLT does not own any electric transmission facilities nor does it hold a franchised service area.

The electric energy that CLT proposes to export to Canada would be surplus energy purchased from electric utilities, Federal power marketing agencies and other entities within the United States. The existing international transmission facilities to be utilized by CLT have previously been authorized by Presidential permits issued pursuant to

Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to become a party to these proceedings or to be heard by filing comments or protests to this application should file a petition to intervene, comment, or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE on or before the date listed above.

Comments on the CLT application to export electric energy to Canada should be clearly marked with Docket No. EA–365. Additional copies are to be filed directly with Jason Brandt, Centre Lane Trading Ltd., 113 Wineva Avenue, Toronto, ON, Canada M4E 2T1. A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://www.oe.energy.gov/permits_pending.htm,* or by e-mailing Odessa Hopkins at *Odessa.hopkins@hq.doe.gov.*

Issued in Washington, DC on April 26, 2010.

Anthony J. Como,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2010–9966 Filed 4–28–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–185–C]

Application To Export Electric Energy; Morgan Stanley Capital Group Inc.

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: Morgan Stanley Capital Group Inc. (MSCG) has applied to renew its authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or requests to intervene must be submitted on or before June 1, 2010.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (FAX 202–586–8008).

FOR FURTHER INFORMATION CONTACT: Anthony Como (Program Office) 202–586–5935 or Michael Skinker (Program Attorney) 202–586–2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the FPA (16 U.S.C. 824a(e)).

On August 21, 1998, DOE issued Order No. EA–185 authorizing MSGC to transmit electric energy from the United States to Canada as a power marketer using existing international electric transmission facilities for two years. On August 14, 2000, DOE issued Order No. EA–185–A, which renewed MSCG's authority for a five-year period. On August 19, 2005, DOE issued Order No. EA–185–B, authorizing MSCG's authority for an additional five-year period, which expires on August 21, 2010. On February 17, 2010, MSCG filed an application with DOE to renew the export authority contained in Order No. EA–185–B for an additional five-year period.

The electric energy that MSCG proposes to export to Canada would be surplus energy purchased from electric utilities, Federal power marketing agencies and other entities within the United States. The existing international transmission facilities to be utilized by MSCG have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to become a party to these proceedings or to be heard by filing comments or protests to this application should file a petition to intervene, comment, or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE on or before the date listed above.

Comments on the MSCG application to export electric energy to Canada should be clearly marked with Docket No. EA–185–C. Additional copies are to be filed directly with Edward J. Zabrocki, Morgan Stanley & Co. Incorporated, 2000 Westchester Ave., Purchase, NY 10577 and Daniel E. Frank, Sutherland Asbill & Brennan LLP, 1275 Pennsylvania Ave., NW., Washington, DC 20004. A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://www.oe.energy.gov/permits_pending.htm*, or by e-mailing Odessa Hopkins at *Odessa.Hopkins@hq.doe.gov*.

Issued in Washington, DC, on April 20, 2010.

Anthony J. Como,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2010–9967 Filed 4–28–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13317–000]

Bishop Paiute Tribe; Notice of Competing Preliminary Permit Application Accepted for Filing and Soliting Comments and Motions To Intervene

April 21, 2010.

On November 3, 2008, the Bishop Paiute Tribe filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Bishop Paiute Hydroelectric Project to be located on a new penstock between the base of a mine and Morgan Creek in Inyo County, California. The proposed project would be located within the Inyo National Forest on lands of the U.S. Forest Service. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of: (1) The existing Pine Creek Mine site and access tunnel; (2) an existing 12-foot by 12-foot by 30-foot reinforced concrete plug in the Pine Creek Mine; (3) a proposed 18-inch or smaller steel penstock; (4) a proposed 250-kilowatt generating unit; (5) a proposed 2.4-kilovolt, 60-foot-long transmission line; and (6) appurtenant facilities. The project would have an annual generating capacity of 2.3 gigawatt-hours that would be sold to a local utility.

Applicant Contact: Mr. Monty Bengochia, Chairman, Bishop Paiute Tribe, 50 Tu Su Lane, Bishop, CA 93514; (760) 873–3584.

FERC Contact: Emily Carter; (202) 502–6512.

Competing Application: This application competes with Project No. 12532–002 filed March 3, 2008. Competing applications were due by close of business on November 18, 2008.

Deadline for Filing Comments or Motions to Intervene: 60 days from the issuance of this notice. Comments and motions to intervene may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filings-comments.asp.* More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13317) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–9934 Filed 4–28–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2685–023]

New York Power Authority (NYPA); Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

April 21, 2010.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of license to delete certain non-jurisdictional transmission facilities from license.

b. *Project No.:* 2685–023.

c. *Date Filed:* April 9, 2010.

d. *Applicant:* New York Power Authority (NYPA).

e. *Name of Project:* Blenheim Gilboa.

f. *Location:* The project is located on Schoharie Creek, Schoharie County, New York.

g. *Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mark Slade, Licensing Manager, New York Power Authority, 123 Main Street, White Plains, NY 10601. Tel: (914) 681–6659 or e-mail address: *Mark.Slade@nypa.gov.*

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Vedula Sarma at (202) 502–6190, or e-mail address: *vedula.sarma@ferc.gov.*

j. *Deadline for filing comments and or motions:* May 21, 2010.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the "e-filing" link. The Commission strongly encourages electronic filings.

All documents (original and eight copies) filed by paper should be sent to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–2685–023) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* NYPA requests authorization to remove three transmission lines: Fraser-Gilboa line, Gilboa-New Scotland line, and Gilboa-Leeds line from the project's license. According to the licensee the lines are no longer primary lines for the project, but they are integral part of the licensee's interconnected transmission system.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application.

A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–9936 Filed 4–28–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. CAC–026]

Energy Conservation Program for Commercial Equipment: Decision and Order Granting a Waiver to Daikin AC (Americas), Inc. (Daikin) From the Department of Energy Commercial Package Air Conditioner and Heat Pump Test Procedures

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and order.

SUMMARY: This notice publishes the U.S. Department of Energy's (DOE) decision and order in Case No. CAC–026, which grants Daikin a waiver from the existing DOE test procedure applicable to commercial package central air conditioners and heat pumps. The waiver is specific to the Daikin variable capacity VRV–WIII (commercial) water-source multi-split heat pumps. As a condition of this waiver, Daikin must use the alternate test procedure set forth in this notice to test and rate its VRV–WIII multi-split products.

DATES: This decision and order is effective April 29, 2010.

FOR FURTHER INFORMATION CONTACT: Dr. Michael G. Raymond, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–9611. E-mail: *Michael.Raymond@ee.doe.gov*. Betsy Kohl, U.S. Department of Energy, Office of General Counsel, Mail Stop GC–71, 1000 Independence Avenue, SW., Washington, DC 20585–0103, (202) 586–9507; E-mail: *Elizabeth.Kohl@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: In accordance with Title 10 of the Code of Federal Regulations (10 CFR) 431.401(f)(4), DOE gives notice that it issues the decision and order set forth below. In this decision and order, DOE grants Daikin a waiver from the existing DOE commercial package air conditioner and heat pump test procedures for its VRV–WIII multi-split products. The waiver requires Daikin use the alternate test procedure provided in this notice to test and rate the specified models from its VRV–WIII multi-split product line. The capacities of the Daikin VRV–WIII multi-split heat pumps range from 72,000 Btu/hr to 252,000 Btu/hr. The applicable test procedure for Daikin's commercial VRV–WIII multi-split heat pumps with capacities less than 135,000 Btu/hr is ISO Standard 13256–1 (1998). There is no applicable test procedure for the larger-capacity Daikin VRV–WIII heat pumps. Today's decision prohibits Daikin from making any representations concerning the energy efficiency of these products unless the product has been tested consistent with the provisions and restrictions in the alternate test procedure set forth in the decision and order below, and the representations fairly disclose the test results. 42 U.S.C. 6314(d).

Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products. 42 U.S.C. 6293(c).

Issued in Washington, DC, on April 22, 2010.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Decision and Order

In the Matter of: Daikin AC (Americas), Inc. (Daikin) (Case No. CAC–026).

Background

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions concerning energy efficiency, including Part A of Title III which establishes the "Energy Conservation Program for Consumer Products Other Than Automobiles." 42 U.S.C. 6291–6309. Part A–1 of Title III provides for a similar energy efficiency program titled "Certain Industrial Equipment," which includes large and small commercial air conditioning equipment, package boilers, storage water heaters, and other types of commercial equipment. 42 U.S.C. 6311–6317.

Today's notice involves commercial equipment under Part A–1. The statute specifically includes definitions, test procedures, labeling provisions, and energy conservation standards. It also provides the Secretary of Energy (the Secretary) with the authority to require information and reports from manufacturers. 42 U.S.C. 6311–6317. The statute authorizes the Secretary to prescribe test procedures that are reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated annual operating costs, and that are not unduly burdensome to conduct. 42 U.S.C. 6314(a)(2).

For commercial package air-conditioning and heating equipment, EPCA provides that "the test procedures shall be those generally accepted industry testing procedures or rating procedures developed or recognized by the Air-Conditioning and Refrigeration Institute or by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, as referenced in ASHRAE/IES Standard 90.1 and in effect on June 30, 1992." 42 U.S.C. 6314(a)(4)(A). Under 42 U.S.C. 6314(a)(4)(B), the Secretary must amend the test procedure for a covered commercial product if the applicable industry test procedure is amended, unless the Secretary determines, by rule and based on clear and convincing evidence, that such a modified test procedure does not meet the statutory criteria set forth in 42 U.S.C. 6314(a)(2) and (3).

On December 8, 2006, DOE published a final rule adopting test procedures for commercial package air-conditioning and heating equipment, effective January 8, 2007. 71 FR 71340). DOE adopted the International Organization for Standardization (ISO) Standard 13256–1–1998, "Water-source heat pumps—Testing and rating for performance—Part 1: Water-to-air and brine-to-air heat pumps," for small commercial package water-source heat pumps with capacities < 135,000 British thermal units per hour (Btu/h). *Id.* at 71371. Pursuant to this rulemaking, DOE's regulations at 10 CFR 431.95(b)(3) incorporate by reference ISO Standard 13256–1–1998. In addition, Table 1 of 10 CFR 431.96 directs manufacturers of commercial package water-source air conditioning and heating equipment to use the appropriate procedure when measuring the energy efficiency of those products. The cooling capacities of Daikin's commercial VRV–WIII multi-split heat pump products at issue in the waiver petition range from 72,000 Btu/hr to 252,000 Btu/hr. The Daikin products with capacities ≥ 135,000 Btu/hr are not covered by this waiver because there is no DOE test procedure for water-source heat pumps with capacities ≥ 135,000 Btu/hr.

In addition, DOE's regulations allow a person to seek a waiver for a particular

basic model from the test procedure requirements for covered commercial equipment if: (1) That basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures, or (2) the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 431.401(a)(1). A waiver petition must include any alternate test procedures known to the petitioner to evaluate characteristics of the basic model in a manner representative of its energy consumption. 10 CFR 431.401(b)(1)(iii). The Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 431.401(f)(4). Waivers remain in effect pursuant to the provisions of 10 CFR 431.401(g).

The waiver process also allows any interested person who has submitted a petition for waiver to file an application for interim waiver from the applicable test procedure requirements. 10 CFR 431.401(a)(2). An interim waiver may be granted if the Assistant Secretary determines that the applicant will experience economic hardship if the application for interim waiver is denied, if it appears likely that the petition for waiver will be granted, and/or if the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. 10 CFR 431.401(e)(3). An interim waiver remains in effect for 180 days or until DOE issues its determination on the petition for waiver, whichever occurs first. The interim waiver may be extended by DOE for an additional 180 days. 10 CFR 431.401(e)(4).

On November 10, 2009, Daikin filed a petition for waiver and an application for interim waiver from the test procedures applicable to small and large commercial package air-cooled air-conditioning and heating equipment. The applicable test procedure is ISO Standard 13256–1–1998, specified in Tables 1 and 2 of 10 CFR 431.96. Daikin asserted that the two primary factors that prevent testing of multi-split variable speed products, regardless of manufacturer, are the same factors stated in the waivers that DOE granted to Mitsubishi Electric & Electronics USA, Inc. (Mitsubishi) for a similar line of commercial multi-split air-conditioning systems:

- Testing laboratories cannot test products with so many indoor units; and
- There are too many possible combinations of indoor and outdoor units to test. Mitsubishi, 72 FR 17528 (April 9, 2007); Samsung, 72 FR 71387 (Dec. 17, 2007); Fujitsu, 72 FR 71383 (Dec. 17, 2007); Daikin, 73 FR 39680 (July 10, 2008); Daikin, 74 FR 15955 (April 8, 2009); Sanyo, 74 FR 16193 (April 9, 2009); Daikin, 74 FR 16373 (April 10, 2009); and LG, 74 FR 66330 (December 15, 2009).

On January 29, 2010, DOE published Daikin's petition for waiver in the **Federal Register**, seeking public comment pursuant to 10 CFR 431.3401(b)(1)(iv), and granted the application for interim waiver. 75 FR 4795. DOE received no comments on the Daikin petition.

In a similar case, DOE published a petition for waiver from Mitsubishi for products very similar to Daikin's multi-split products. 71 FR 14858 (March 24, 2006). In the March 24, 2006, **Federal Register** notice, DOE also published and requested comment on an alternate test procedure for the MEUS products at issue. DOE stated that if it specified an alternate test procedure for MEUS in the subsequent decision and order, DOE would consider applying the same procedure to similar waivers for residential and commercial central air conditioners and heat pumps, including such products for which waivers had previously been granted. *Id.* at 14861. Comments were published along with the Mitsubishi decision and order in the **Federal Register** on April 9, 2007. 72 FR 17528. Most of the comments were favorable. One commenter indicated that a waiver was unnecessary. However, the commenter did not present a satisfactory method of testing the products. *Id.* at 17529. Generally, commenters agreed that an alternate test procedure is necessary while a final test procedure for these types of products is being developed. *Id.* The Mitsubishi decision and order included the alternate test procedure adopted by DOE. *Id.*

Assertions and Determinations

Daikin's Petition for Waiver

Daikin seeks a waiver from the DOE test procedures for this product class on the grounds that its VRV–WIII multi-split heat pumps contain design characteristics that prevent them from being tested using the current DOE test procedures. As stated above, Daikin asserts that the two primary factors that prevent testing of multi-split variable speed products, regardless of manufacturer, are the same factors stated in the waivers that DOE granted to Mitsubishi, Fujitsu General Ltd. (Fujitsu), Samsung Air Conditioning (Samsung), Sanyo and LG for similar lines of commercial multi-split air-conditioning systems: (1) Testing laboratories cannot test products with so many indoor units; (2) there are too many possible combinations of indoor and outdoor unit to test.

The Daikin VRV–WIII systems have operational characteristics similar to the commercial multi-split products manufactured by Mitsubishi, Samsung, Fujitsu, LG and Sanyo. As indicated above, DOE has granted waivers for these products. The VRV–WIII system can be connected to the complete range of Daikin ceiling-mounted, concealed, ducted, corner, cassette, wall-mounted and floor-mounted and other indoor fan coil units. Each of these units has nine different indoor static pressure ratings as standard. Additional pressure ratings are available. There are over one million combinations possible with the Daikin VRV–WIII system. Consequently, Daikin requested that DOE grant a waiver from the applicable test procedures for its VRV–WIII product designs until a suitable test method can be prescribed. DOE believes that the Daikin VRV–WIII equipment, and equipment for which waivers have previously been granted, are alike with respect to the factors that make them eligible for test procedure waivers. DOE therefore grants Daikin a VRV–WIII multi-split product waiver similar to the multi-split product waivers already issued to other manufacturers.

Previously, in addressing Mitsubishi's R410A CITY MULTI VRFZ products, which are similar to the Daikin products at issue here, DOE stated:

> To provide a test procedure from which manufacturers can make valid representations, [DOE] is considering setting an alternate test procedure for MEUS in the subsequent Decision and Order. Furthermore, if DOE specifies an alternate test procedure for [Mitsubishi], DOE is considering applying the alternate test procedure to similar waivers for residential and commercial central air conditioners and heat pumps. Such cases include Samsung's petition for its DVM products (70 FR 9629, February 28, 2005), Fujitsu's petition for its Airstage variable refrigerant flow (VRF) products (70 FR 5980, February 4, 2005), and [Mitsubishi]'s petition for its R22 CITY MULTI VRFZ products. (69 FR 52660, August 27, 2004).
>
> 71 FR 14861.

Daikin did not include an alternate test procedure in its petition for waiver. However, in response to two recent petitions for waiver from Mitsubishi, DOE specified an alternate test

procedure that Mitsubishi could use to test and make valid energy efficiency representations for its R410A CITY MULTI products and its R22 multi-split products. Alternate test procedures related to the Mitsubishi petitions were published in the **Federal Register** on April 9, 2007. 72 FR 17533.

DOE understands that existing testing facilities have a limited ability to test multiple indoor units simultaneously. It also understands that it is impractical to test some variable refrigerant flow zoned systems because of the number of possible combinations of indoor and outdoor units. DOE further notes that after the waiver granted Mitsubishi's R22 multi-split products, AHRI formed a committee to develop a testing protocol for variable refrigerant flow systems. The committee developed AHRI Standard 1230—2009: "Performance Rating of Variable Refrigerant Flow (VRF) Multi-Split Air-Conditioning and Heat Pump Equipment." AHRI has adopted the standard.

DOE issues today's decision and order granting Daikin a test procedure waiver for its commercial VRV–WIII [water-source?] multi-split heat pumps. As a condition of this waiver, Daikin must use the alternate test procedure described below. This alternate test procedure is the same in all relevant particulars as the one that DOE applied to the Mitsubishi waiver.

Alternate Test Procedure

The alternate test procedure permits Daikin to designate a tested combination for each model of outdoor unit. The indoor units designated as part of the tested combination must meet specific requirements. For example, the tested combination must have between two to five indoor units so that it can be tested in available test facilities. The tested combination must be tested according to the applicable DOE test procedure, as modified by the provisions of the alternate test procedure as set forth below.

The alternate DOE test procedure also allows Daikin to represent the products' energy efficiency. These representations must fairly disclose the test results. The DOE test procedure, as modified by the alternate test procedure set forth in this decision and order, provides for efficiency rating of a non-tested combination in one of two ways: (1) At an energy efficiency level determined using a DOE-approved alternative rating method; or (2) at the efficiency level of the tested combination utilizing the same outdoor unit.

As in the Mitsubishi waiver, DOE believes that allowing Daikin to make energy efficiency representations for non-tested combinations by adopting the alternative test procedure is reasonable because the outdoor unit is the principal efficiency driver. The current DOE test procedure for commercial products tends to rate these products conservatively because it does not account for their multi-zoning feature. The multi-zoning feature of these products enables them to cool only those portions of the building that require cooling. Products with a multi-zoning feature are expected to use less energy than units controlled by a single thermostat, which cool the entire home or commercial building regardless of whether only portions need cooling. The multi-zoning feature would not be properly evaluated by the current test procedure, which requires full-load testing. Full load testing requires the entire building to be cooled. Products using a multi-zoning feature and subjected to full-load testing would be at a disadvantage because they are optimized for highest efficiency when operating with less than full loads. The alternate test procedure will provide a conservative basis for assessing the energy efficiency of such products.

With regard to the laboratory testing of commercial products, some of the difficulties associated with the existing test procedure are avoided by the alternate test procedure's requirements for choosing the indoor units to be used in the manufacturer-specified tested combination. For example, in addition to limiting the number of indoor units, another requirement is that all the indoor units must be subjected the same minimum external static pressure. This requirement enables the test lab to manifold the outlets from each indoor unit into a common plenum that supplies air to a single airflow measuring apparatus. This eliminates situations in which some of the indoor units are ducted and some are non-ducted. Without this requirement, the laboratory must evaluate the capacity of a subgroup of indoor coils separately and then sum the separate capacities to obtain the overall system capacity. Measuring capacity in this way would require that the test laboratory be equipped with multiple airflow measuring apparatuses. It is unlikely that any test laboratory would be equipped with the necessary number of such apparatuses. Alternatively, the test laboratory could connect its one airflow measuring apparatus to one or more common indoor units until the contribution of each indoor unit had been measured. That would be so time-consuming as to be impractical.

Furthermore, DOE stated in the March 24, 2006 notice publishing the Mitsubishi petition for waiver that if it decided to specify an alternate test procedure for Mitsubishi it would consider applying the procedure to waivers for similar residential and commercial central air conditioners and heat pumps produced by other manufacturers. 71 FR 14861. As noted above, most of the comments received by DOE in response to the March 2006 notice supported the proposed alternate test procedure. 72 FR 17529. Commenters responding to that prior notice generally agreed that an alternate test procedure is appropriate for an interim period while a final test procedure for these products is being developed. *Id.*

For the reasons discussed above, DOE believes Daikin's VRV–WIII multi-split products cannot be tested using the procedure prescribed in 10 CFR 431.96 (ISO Standard 13256–1 (1998) and incorporated by reference in DOE's regulations at 10 CFR 431.95(b)(3). After careful consideration, DOE has decided to prescribe the alternate test procedure first developed for the Mitsubishi waiver for Daikin's commercial multi-split products. The alternate test procedure for the Daikin products must include the modifications described above.

Consultations With Other Agencies

DOE consulted with the Federal Trade Commission (FTC) staff concerning the Daikin petition for waiver. The FTC staff did not have any objections to issuing a waiver to Daikin.

Conclusion

After careful consideration of all the materials submitted by Daikin, the absence of any comments, and consultation with the FTC staff, it is ordered that:

(1) The petition for waiver filed by Daikin (Case No. CAC–026) is hereby granted as set forth in the paragraphs below.

(2) Daikin shall not be required to test or rate its VRV–WIII multi-split air conditioner and heat pump models listed below on the basis of the test procedure cited in 10 CFR 431.96, specifically, ISO Standard 13256–1 (1998) (incorporated by reference in 10 CFR 431.95(b)(3)). Instead, it shall be required to test and rate such products according to the alternate test procedure as set forth in paragraph (3).

VRV–WIII Series Outdoor Units

- Models RWEYQ72PTJU, RWEYQ84PTJU.

• Compatible Indoor Units For Above Listed Outdoor Units:

○ FXAQ Series wall mounted indoor units with nominally rated capacities of 7,000, 9,000, 12,000, 18,000 and 24,000 Btu/hr.

○ FXLQ Series floor mounted indoor units with nominally rated capacities of 12,000, 18,000 and 24,000 Btu/hr.

○ FXNQ Series concealed floor mounted indoor units with nominally rated capacities of 12,000, 18,000 and 24,000 Btu/hr.

○ FXDQ Series low static ducted indoor units with nominally rated capacities of 7,000, 9,000, 12,000, 18,000 and 24,000 Btu/hr.

○ FXSQ Series medium static ducted indoor units with nominally rated capacities of 7,000, 9,000, 12,000, 18,000, 24,000, 30,000, 36,000 and 48,000 Btu/hr.

○ FXMQ–M Series high static ducted indoor units with nominally rated capacities of 30,000, 36,000, 48,000, 72,000 and 96,000 Btu/hr.

○ FXMQ–P Series high static ducted indoor units with nominally rated capacities of 7,000, 9,000, 12,000, 18,000, 24,000, 30,000, 36,000 and 48,000 Btu/hr.

○ FXMQ–MF Series Outdoor Air Processing indoor units with nominally rated capacities of 48,000, 72,000 and 96,000 Btu/hr.

○ FXTQ–P Series Vertical Air Handler indoor units with nominally rated capacities of 12,000, 18,000, 24,000, 30,000, 36,000, 42,000, 48,000 and 54,000 Btu/hr.

○ FXZQ Series recessed cassette indoor units with nominally rated capacities of 7,000, 9,000, 12,000, 18,000 and 24,000 Btu/hr.

○ FXFQ Series recessed cassette indoor units with nominally rated capacities of 12,000, 18,000, 24,000, 30,000 and 36,000 Btu/hr.

○ FXHQ Series ceiling suspended indoor units with nominally rated capacities of 12,000, 24,000 and 36,000 Btu/hr.

(3) *Alternate test procedure.*

(A) Daikin is required to test the products listed in paragraph (2) above according to the test procedure for central air conditioners and heat pumps prescribed by DOE at 10 CFR part 431 (ISO Standard 13256–1 (1998) (incorporated by reference in 10 CFR 431.95(b)(3)), except that Daikin shall test a tested combination selected in accordance with the provisions of subparagraph (3)(B). For every other system combination using the same outdoor unit as the tested combination, Daikin shall make representations concerning the VRV–WIII products covered in this waiver according to the provisions of subparagraph (C) below.

(B) *Tested combination.* The term tested combination means a sample basic model comprised of units that are production units, or are representative of production units, of the basic model being tested. For the purposes of this waiver, the tested combination shall have the following features:

(i) The basic model of a variable refrigerant flow system used as a tested combination shall consist of an outdoor unit that is matched with between two and five indoor units. For multi-split systems, each of these indoor units shall be designed for individual operation.

(ii) The indoor units shall:

(a) Represent the highest sales model family, or another indoor model family if the highest sales model family does not provide sufficient capacity (*see* b);

(b) Together, have a nominal cooling capacity that is between 95 percent and 105 percent of the nominal cooling capacity of the outdoor unit;

(c) Not, individually, have a nominal cooling capacity greater than 50 percent of the nominal cooling capacity of the outdoor unit;

(d) Operate at fan speeds that are consistent with the manufacturer's specifications; and

(e) Be subject to the same minimum external static pressure requirement.

(C) *Representations.* In making representations about the energy efficiency of its VRV–WIII multi-split products, for compliance, marketing, or other purposes, Daikin must fairly disclose the results of testing under the DOE test procedure in a manner consistent with the provisions outlined below:

(i) For VRV–WIII multi-split combinations tested in accordance with this alternate test procedure, Daikin may make representations based on these test results.

(ii) For VRV–WIII multi-split combinations that are not tested, Daikin may make representations based on the testing results for the tested combination and that are consistent with either of the two following methods:

(a) Representation of non-tested combinations according to an alternative rating method approved by DOE; or

(b) Representation of non-tested combinations at the same energy efficiency level as the tested combination with the same outdoor unit.

(4) This waiver shall remain in effect from the date this order is issued, consistent with the provisions of 10 CFR 431.401(g).

(5) This waiver is issued on the condition that the statements, representations, and documentary materials provided by the petitioner are valid. DOE may revoke or modify the waiver at any time if it determines that the factual basis underlying the Petition for Waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

Issued in Washington, DC on April 22, 2010.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

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DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. RF–012]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to Electrolux Home Products, Inc. From the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and order.

SUMMARY: The U.S. Department of Energy (DOE) gives notice of the decision and order (Case No. RF–012) that grants to Electrolux Home Products, Inc. (Electrolux) a waiver from the DOE electric refrigerator and refrigerator-freezer test procedure for certain basic models containing relative humidity sensors and adaptive control anti-sweat heaters. Under today's decision and order, Electrolux shall be required to test and rate its refrigerator-freezers with adaptive control anti-sweat heaters using an alternate test procedure that takes this technology into account when measuring energy consumption.

DATES: This Decision and Order is effective April 29, 2010.

FOR FURTHER INFORMATION CONTACT: Dr. Michael G. Raymond, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–9611, *E-mail: AS_Waiver_Requests@ee.doe.gov.* Betsy Kohl, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–71, 1000 Independence Avenue, SW.,

Washington, DC 20585–0103, (202) 586–9507, *E-mail: Elizabeth.Kohl@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: In accordance with Title 10 of the Code of Federal Regulations (10 CFR) 430.27(l), DOE gives notice of the issuance of its decision and order as set forth below. The decision and order grants Electrolux a waiver from the applicable residential refrigerator and refrigerator-freezer test procedures in 10 CFR part 430, subpart B, appendix A1 for certain basic models of refrigerator-freezers with relative humidity sensors and adaptive control anti-sweat heaters, provided that Electrolux tests and rates such products using the alternate test procedure described in this notice. Today's decision prohibits Electrolux from making representations concerning the energy efficiency of these products unless the product has been tested consistent with the provisions and restrictions in the alternate test procedure set forth in the decision and order below, and the representations fairly disclose the test results. Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products. 42 U.S.C. 6293(c).

Issued in Washington, DC, on April 22, 2010.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Decision and Order

In the Matter of: Electrolux Home Products, Inc. (Case No. RF–012).

Background

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions concerning energy efficiency. Part A of Title III provides for the "Energy Conservation Program for Consumer Products Other Than Automobiles." 42 U.S.C. 6291–6309. Part A includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part A authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results that measure energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. *Id.* § 6293(b)(3).

Today's notice involves residential products under Part A. The test procedure for residential electric refrigerator-freezers relevant to the current petition for waiver is contained in 10 CFR part 430, subpart B, appendix A1.

DOE's regulations contain provisions allowing a person to seek a waiver from the test procedure requirements for covered consumer products when (1) the petitioner's basic model contains one or more design characteristics that prevent testing according to the prescribed test procedure, or (2) when prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). Petitioners must include in their petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption characteristics. § 430.27(b)(1)(iii).

The Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) may grant a waiver subject to conditions, including adherence to alternate test procedures. § 430.27(l). Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(m).

The waiver process also allows any interested person who has submitted a petition for waiver to file an application for interim waiver of the applicable test procedure requirements. § 430.27(a)(2). The Assistant Secretary will grant an interim waiver request if it is determined that the applicant will experience economic hardship if the interim waiver is denied, if it appears likely that the petition for waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. § 430.27(g).

On November 6, 2008, Electrolux filed a petition for waiver from the test procedures applicable to residential refrigerators and refrigerator-freezers. Electrolux's petition was published in the **Federal Register** on June 4, 2009. 74 FR 26853. In that notice, DOE announced its grant of an interim waiver to Electrolux, and expanded that waiver to include four additional models after receiving supplemental information from the company. On July 13, 2009, Electrolux filed a petition for waiver for additional, similar models of residential refrigerators and refrigerator-freezers. Electrolux's petition was published in the **Federal Register** on December 15, 2009. *Id.* at 66344. In the same **Federal Register** notice, DOE extended the June 4, 2009, interim waiver to these additional models.

On December 4, 2009, Electrolux filed a third petition for waiver from the test procedure applicable to residential electric refrigerators and refrigerator-freezers set forth in 10 CFR part 430, subpart B, appendix A1. All three Electrolux petitions pertain to new refrigerators and refrigerator-freezers that contain variable anti-sweat heater controls. These controls detect a broad range of temperature and humidity conditions and respond by activating adaptive heaters, as needed, to evaporate excess moisture. According to the petitioner, Electrolux's technology is similar to that used by General Electric Company (GE) and Whirlpool Corporation (Whirlpool) for refrigerator-freezers which were the subject of petitions for waiver published April 17, 2007 (72 FR 19189) and July 10, 2008 (73 FR 39684), respectively. GE's waiver was granted on February 27, 2008 (73 FR 10425). Whirlpool's waiver was granted on May 5, 2009 (74 FR 20695). DOE granted the first two Electrolux waivers on December 15, 2009 (74 FR 66338), and March 11, 2010 (75 FR 11530).

Assertions and Determinations

Electrolux's Petition for Waiver

In its December 2009 petition, Electrolux sought a waiver from the existing DOE test procedure applicable to refrigerators and refrigerator-freezers under 10 CFR part 430 because it takes neither ambient humidity nor adaptive technology into account. Electrolux sought similar waivers in its July and November 2009 petitions, which were granted. Electrolux asserts these new products are identical in function and operation to the basic models listed in Electrolux's earlier petitions with respect to the properties that made those products eligible for a waiver. DOE did not receive any comments on the Electrolux petition.

Electrolux requested it be permitted to use the same alternate test procedure DOE prescribed for GE, Whirlpool and Electrolux refrigerators and refrigerator-freezers equipped with a similar technology. The alternate test procedure applicable to the GE, Whirlpool and Electrolux products simulates the energy used by the adaptive heaters in a typical consumer household, as explained in the GE decision and order referenced above. As DOE has stated in the past, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Consultations With Other Agencies

DOE consulted with the Federal Trade Commission (FTC) staff concerning the Electrolux petition for waiver. The FTC staff did not have any objections to granting a waiver to Electrolux.

Conclusion

After careful consideration of all the material that was submitted by Electrolux and consultation with the FTC staff, it is ordered that:

(1) The petition for waiver submitted by Electrolux Home Products, Inc. (Case No. RF–012) is hereby granted as set forth in the paragraphs below.

(2) Electrolux shall not be required to test or rate the following Electrolux models on the basis of the current test procedures contained in 10 CFR part 430, subpart B, appendix A1. Instead, it shall be required to test and rate such products according to the alternate test procedure as set forth in paragraph (3) below:

CRS23***	FFCU23****	FGHS26****	FGUN23****	FGHB28****
CRS26***	FGHC23****	FGUS26****	FPHN23****	FGUB28****
FFHS23****	FGCU23****	FPHS26****	FPUN23****	FPHB28****
FFUS23****	FPHC23****	FPUS26****	EI23BC****	FPUB28****
FGHS23****	FPCU23****	EI26SS****	EW23BC****	FGHN28****
FGUS23****	FFSC23****	EW26SS****	E23BC*****	FGUN28****
FPHS23****	EI23CS****	FGHF23****	FFHB26****	FPHN28****
FPUS23****	EW23CS****	FGUB23****	FFUB26****	FPUN28****
EI23SS****	E23CS****	FPHF23****	FFHN26****	EI28BS****
EW23SS****	FFHS26****	FPUB23****	FFUN26****	EW28BS****
FFHC23****	FFUS26****	FGHN23****	EI26BS****	

(3) Electrolux shall be required to test the products listed in paragraph (2) above according to the test procedures for electric refrigerator-freezers prescribed by DOE at 10 CFR part 430, appendix A1, except that, for the Electrolux products listed in paragraph (2) only:

(A) The following definition is added at the end of Section 1:

1.13 Variable anti-sweat heater control means an anti-sweat heater where power supplied to the device is determined by an operating condition variable(s) and/or ambient condition variable(s).

(B) Section 2.2 is revised to read as follows:

2.2 Operational conditions. The electric refrigerator or electric refrigerator-freezer shall be installed and its operating conditions maintained in accordance with HRF–1–1979, section 7.2 through section 7.4.3.3. except that the vertical ambient temperature gradient at locations 10 inches (25.4 cm) out from the centers of the two sides of the unit being tested is to be maintained during the test. Unless shields or baffles obstruct the area, the gradient is to be maintained from 2 inches (5.1 cm) above the floor or supporting platform to a height 1 foot (30.5 cm) above the unit under test. Defrost controls are to be operative. The anti-sweat heater switch is to be off during one test and on during the second test. In the case of an electric refrigerator-freezer equipped with variable anti-sweat heater control, the result of the second test will be derived by performing the calculation described in 6.2.3. Other exceptions are noted in 2.3, 2.4, and 5.1 below.

(C) New section 6.2.3 is inserted after section 6.2.2.2.

6.2.3 Variable anti-sweat heater control test. The energy consumption of an electric refrigerator-freezer with a variable anti-sweat heater control in the on position (E_{on}), expressed in kilowatt-hours per day, shall be calculated equivalent to:

E_{ON} = E + (Correction Factor)

where E is determined by sections 6.2.1.1, 6.2.1.2, 6.2.2.1, or 6.2.2.2, whichever is appropriate, with the anti-sweat heater switch in the off position.

Correction Factor = (Anti-sweat Heater Power × System-loss Factor) × (24 hrs/1 day) × (1 kW/1000 W)

Where:

Anti-sweat Heater Power = A1 * (Heater Watts at 5%RH)
+ A2 * (Heater Watts at 15%RH)
+ A3 * (Heater Watts at 25%RH)
+ A4 * (Heater Watts at 35%RH)
+ A5 * (Heater Watts at 45%RH)
+ A6 * (Heater Watts at 55%RH)
+ A7 * (Heater Watts at 65%RH)
+ A8 * (Heater Watts at 75%RH)
+ A9 * (Heater Watts at 85%RH)
+ A10 * (Heater Watts at 95%RH)

Where A1–A10 are defined in the following table:

A1 = 0.034	A6 = 0.119
A2 = 0.211	A7 = 0.069
A3 = 0.204	A8 = 0.047
A4 = 0.166	A9 = 0.008
A5 = 0.126	A10 = 0.015

Heater Watts at a specific relative humidity = the nominal watts used by all heaters at that specific relative humidity, 72 °F ambient, and DOE reference temperatures of fresh food (FF) average temperature of 45 °F and freezer (FZ) average temperature of 5 °F. System-loss Factor = 1.3

(4) *Representations.* Electrolux may make representations about the energy use of its adaptive control anti-sweat heater refrigerator-freezer products for compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions outlined above and such representations fairly disclose the results of such testing.

(5) This waiver shall remain in effect consistent with the provisions of 10 CFR 430.27(m).

(6) This waiver is issued on the condition that the statements, representations, and documentary materials provided by the petitioner are valid. DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

Issued in Washington, DC on April 22, 2010.

Cathy Zoi,
Assistant Secretary,
Energy Efficiency and Renewable Energy.

[FR Doc. 2010–9973 Filed 4–28–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. RF–015]

Energy Conservation Program for Consumer Products: Notice of Petition for Waiver of General Electric Company (GE) From the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of petition for waiver and request for comments.

SUMMARY: This notice announces receipt of and publishes the GE petition for waiver (hereafter, "petition") from parts of the U.S. Department of Energy (DOE) test procedure for determining the energy consumption of electric refrigerators and refrigerator-freezers. Through this document, DOE is

soliciting comments with respect to the GE petition.

DATES: DOE will accept comments, data, and information with respect to the GE petition until, but no later than June 1, 2010.

ADDRESSES: You may submit comments, identified by case number RF–015, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *E-mail: AS_Waiver_Requests@ee.doe.gov*. Include either the case number [Case No. RF–015], and/or "GE Petition" in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J/1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. Please submit one signed original paper copy.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Please submit one signed original paper copy.

Instructions: All submissions received must include the agency name and case number for this proceeding. Submit electronic comments in WordPerfect, Microsoft Word, Portable Document Format (PDF), or text (American Standard Code for Information Interchange (ASCII)) file format and avoid the use of special characters or any form of encryption. Wherever possible, include the electronic signature of the author. DOE does not accept telefacsimiles (faxes).

Any person submitting written comments must also send a copy of such comments to the petitioner, pursuant to Title 10 of the Code of Federal Regulations (10 CFR) 430.27(d). The contact information for the petitioner is: Earl F. Jones, Senior Counsel, GE Consumer & Industrial, Appliance Park 2–225, Louisville, KY 40225. E-mail: *earl.f.jones@ge.com*.

According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies to DOE: one copy of the document including all the information believed to be confidential, and one copy of the document with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Docket: For access to the docket to review the background documents relevant to this matter, you may visit the U.S. Department of Energy, 950 L'Enfant Plaza SW., (Resource Room of the Building Technologies Program), Washington, DC, 20024, (202) 586–2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Available documents include the following items: (1) This notice; (2) public comments received; (3) the petition for waiver; and (4) prior DOE rulemakings regarding similar central air conditioning and heat pump equipment. Please call Ms. Brenda Edwards at the above telephone number for additional information regarding visiting the Resource Room.

FOR FURTHER INFORMATION CONTACT: Dr. Michael G. Raymond, U.S. Department of Energy, Building Technologies Program, Mail Stop EE–2J, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–9611. E-mail: *Michael.Raymond@ee.doe.gov.*

Ms. Betsy Kohl, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–71, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0103. Telephone: (202) 586–7796. E-mail: *Elizabeth.Kohl@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On December 19, 2006, GE filed a petition for waiver from the test procedure applicable to residential electric refrigerators and refrigerator-freezers set forth in Title 10 of the Code of Federal Regulations (10 CFR) part 430, subpart B, appendix A1. The products covered by the petition employ adaptive anti-sweat heaters, which detect and respond to temperature and humidity conditions, and then activate adaptive heaters as needed to evaporate excess moisture. GE's petition was published in the **Federal Register** on April 17, 2007. 72 FR 19189. DOE granted the GE petition in a decision & order published on February 27, 2008. 73 FR 10425.

II. Petition for Waiver of Test Procedure

On February 16, 2010, GE informed DOE that it has developed additional basic models with adaptive anti-sweat heater technology. GE asserted that these new products function and operate the same way as the basic models listed in GE's December 2006 petition for waiver with respect to the properties that made those products eligible for a waiver. GE requested that DOE grant a new waiver for these additional basic models. The following additional products are covered by the February 2010 waiver request:

All models with the letters CFCP1NIY****, CFCP1NIZ****, CFCP1ZIY****, PFCF1NFY****, PFCF1NFZ****, PFCF1PJY****, PFCF1PJZ****, PFCS1NFY****, PFCS1NFZ****, PFCS1PJY****, PFCS1PJZ****, PFQS5PJY****, PFSF5NFY****, PFSF5NFZ****, PFSF5PJY****, PFSF5PJZ****, PFSS5NFY****, PFSS5NFZ****, PFSS5PJY****, PFSS5PJZ****, PGCS1NFY****, PGCS1NFZ****, PGCS1PJY****, PGCS1PJZ****, PGSS5NFY****, PGSS5NFZ****, PGSS5PJY****, PGSS5PJZ****, ZFGB21HY****, ZFGB21HZ****, ZFGP21HY****, ZFGP21HZ****. (The asterisks, or wild cards, denote color or other features that do not affect energy performance.)

DOE notes that GE's February 2010 petition for waiver also includes an alternate test procedure for testing products equipped with adaptive anti-sweat heaters. The alternate test procedure submitted in the February 2010 petition is identical to the one contained in GE's December 2006 petition.

IV. Summary and Request for Comments

Through today's notice, DOE announces receipt of GE's petition for waiver from certain parts of the test procedure that apply to basic models of refrigerators and refrigerator-freezers with variable anti-sweat heater controls and adaptive heaters manufactured by GE. DOE is publishing GE's petition for waiver in its entirety pursuant to 10 CFR 430.27(b)(1)(iv). The petition contains no confidential information. The petition includes a suggested alternate test procedure and calculation methodology to determine the energy consumption of GE's specified refrigerators and refrigerator-freezers with adaptive anti-sweat heaters. DOE is interested in receiving comments from interested parties on all aspects of the petition, including the suggested alternate test procedure and calculation methodology. Pursuant to 10 CFR 430.27(b)(1)(iv), any person submitting written comments to DOE must also send a copy of such comments to the petitioner, whose contact information is included in the **ADDRESSES** section above.

Issued in Washington, DC, on April 22, 2010.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

February 16, 2010

Catherine R. Zoi, Assistant Secretary, Energy Efficiency & Renewable Energy, Department of Energy, 1000 Independence Ave., SW., Route Symbol: EE–1, Wash. DC 20585

Re: Case No. RF–007

Dear Ms. Assistant Secretary:

GE Consumer & Industrial, is an operating division of General Electric Co., ("GE") is a leading manufacturer and marketer of household appliances, including, as relevant to this proceeding, refrigerators. In December 2006, GE filed a Petition for Waiver ("Petition"), which requested the then-Assistant Secretary grant it a waiver from certain parts of the test procedure promulgated by the U.S. Department of Energy ("DOE" or "the Department") for determining refrigerator-freezer energy consumption for its new models of refrigerator-freezers. These innovative models were designed with adaptive anti-sweat heaters, i.e., anti-sweat heaters that respond to humidity conditions found in consumers' homes. Depending on ambient humidity conditions, the anti-sweat heaters would be turned on or off to prevent the accumulation of moisture inside the unit and on the outside of the case. And, because of their ability to sense humidity conditions, energy used to turn the anti-sweat heaters on can be better controlled.

As pointed out in GE's petition, the test conditions specified by DOE's test procedure neither define required humidity conditions nor otherwise take ambient humidity conditions into account in calculating energy consumption, the adaptive feature of GE's new model cannot be tested.

The Petition also pointed out that, if GE had tested its new smart-technology refrigerator per the test procedure the results would not have accurately measured the energy used by the new models.

The Assistant Secretary granted GE's waiver petition on February 27, 2008.[1] Thereafter, Whirlpool Corp. filed and was granted its waiver petition, [2] as was Electrolux [3] and Samsung.[4]

GE files this request for the sole purpose of asking that the relief granted in 2008 be extended to GE's new models of refrigerator-freezers.[5] If this request must be treated as a new waiver petition pursuant to 10 C.F.R. § 430.27, then please accept it as such. If, however, this request can be treated as a request to amend the 2008 decision to cover the new models, then please accept it as such.

GE incorporates herein the original humidity sensor waiver petition and has attached the petition hereto as Exhibit 1. Attached as Exhibit 2 is the Department's decision granting that petition.

We believe that granting our request will be another step in the Department's support of advanced technologies, technologies that promote innovation and strengthen consumer confidence in the reliability of the Department's test procedures

A favorable and speedy ruling on this matter is necessary as the new models are in development and scheduled for sale in the second quarter of 2010. GE will be injured in the market if approval is delayed. Hardship to GE would result if the benefits of the investment in developing the new models is delayed. Respectfully submitted,

Earl F. Jones
Senior Counsel
GE Consumer & Industrial
Appliance Park 2–225
Louisville, KY 40225
earl.f.jones@ge.com
502–452–3164 (voice)
502–452–0395 (fax)

Affected Persons

Primary affected persons in the refrigerator-freezer category include BSH Home Appliances Corp. (Bosch-Siemens Hausgerate GmbH), Electrolux Home Products, Equator, Fisher & Paykel Appliances, Inc., Gorenje USA, Haier America Trading, L.L.C., Heartland Appliances, Inc., Kelon Electrical Holdings Col, Ltd., Liebherr Hausgerate, LG Electronics USA INC., Northland Corporation, Samsung Electronics America, Inc., Sanyo Fisher Company, Sears, Sub-Zero Freezer Company, U–Line, Viking Range, and Whirlpool Corporation. The Association of Home Appliance Manufacturers is also generally interested in energy efficiency requirements for appliances. Consumers' Union, ACEEE, NRDC and Alliance to Save Energy are not manufacturers but have an interest in this matter. GE will notify all these organizations as required by the Department's rules and provide them with a non-confidential version of this Petition.

[FR Doc. 2010–9969 Filed 4–28–10; 8:45 am]

BILLING CODE 6450–01–P

[1] FR Vol. 73 10425 et seq.

[2] FR Vol. 73 39684 et seq. (July 10, 2008).

[3] FR Vol. 74 66344 et seq. (December 15, 2009).

[4] FR Vol. 74 66340 et seq. (December 15, 2009).

[5] The new models are all models with the letters CFCP1NIY****, CFCP1NIZ****, CFCP1ZIY****, PFCF1NFY****, PFCF1NFZ****, PFCF1PJY****, PFCF1PJZ****, PFCS1NFY****, PFCS1NFZ****, PFCS1PJY****, PFCS1PJZ****, PFQS5PJY****, PFSF5NFY****, PFSF5NFZ****, PFSF5PJY****, PFSF5PJZ****, PFSS5NFY****, PFSS5NFZ****, PFSS5PJY****, PFSS5PJZ****, PGCS1NFY****, PGCS1NFZ****, PGCS1PJY****, PGCS1PJZ****, PGSS5NFY****, PGSS5NFZ****, PGSS5PJY****, PGSS5PJZ****, ZFGB21HY****, ZFGB21HZ****, ZFGP21HY****, ZFGP21HZ****. The asterisks, or wild cards, denote color or other features that do not affect energy performance.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL10–51–000]

Grassland Renewables Energy LLC; Notice of Petition for Declaratory Order

March 30, 2010.

Take notice that on March 29, 2010, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, Grassland Renewables Energy LLC filed an application for Petition for Declaratory Order, requesting the Commission to rule on whether the Petitioner's proposal to construct the Wind Spirit Project Collector System (WSP Collector System) as a participant funded transmission facility with priority transmission service rights assigned to WSP Poolco and other entities that agree to pay for the entire cost of the WSP Collector System by contracting for such service at cost-based rates in advance of construction, satisfies the Commission's open access transmission requirements, as the Commission ruled on a participant funded transmission facilities in Orders, *Northeast Utilities Service Co. and NSTAR Electric Co.,* 127 FERC ¶ 61,179 (May 22, Order), and *reh'g denied,* 129 FERC ¶ 61,279 (December 29, Order) (2009).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.*

Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on April 28, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–9935 Filed 4–28–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13328–001—Alaska Snyder Falls Creek Project]

Cordova Electric Cooperative, Inc.; Notice of Proposed Restricted Service List for a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

April 21, 2010.

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding.[1] The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission staff is consulting with the Alaska State Historic Preservation Officer (hereinafter, "Alaska SHPO") and the Advisory Council on Historic Preservation, pursuant to section 106 of the National Historic Preservation Act[2] and its implementing regulations,[3] to develop and execute a programmatic agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at the Snyder Falls Creek Project.

The programmatic agreement, when executed by the Commission and the Alaska SHPO, would satisfy the Commission's section 106 responsibilities for all individual undertakings carried out in accordance with the license until the license expires or is terminated (36 CFR 800.13[e]). The Commission's responsibilities, pursuant to section 106 for the Snyder Falls Creek Project, would be fulfilled through the programmatic agreement, which the Commission staff proposes to develop in consultation with the interested participants listed below. The executed programmatic agreement would be incorporated into any order issuance.

Cordova Electric Cooperative, Inc., as applicant for the Snyder Falls Creek Project, is invited to participate in the consultation to develop the programmatic agreement. For the purpose of commenting on the programmatic agreement, we propose to restrict the service list for the proposed project as follows:

John Fowler, Executive Director, Advisory Council on Historic Preservation, The Old Post Office Building, 1100 Pennsylvania Avenue, NW., Suite 803, Washington, DC 20004.

Judith Bittner, SHPO, Office of History & Archaeology, 550 W 7th Avenue, Suite 1310, Anchorage, AK 99501.

Clay Koplin, CEO, Cordova Electric Cooperative, Inc., P.O. Box 20, Cordova, AK 99574–0020.

Roy Totemoff, President, Tatitlek Corporation, 561 E. 36 Avenue, Anchorage, AK 99503.

Jason Borer, Eyak Corporation, P.O. Box 340, Cordova, AK 99574.

David Phillips, Chugach Alaska Corporation, 3800 Centerpoint Drive, Suite 601, Anchorage, AK 99503.

Bruce Cain, Native Village of Eyak, P.O. Box 1388, Cordova, AK 99574.

Representative, U.S. Forest Service, Chugach National Forest, 3301 C Street, Suite 300, Anchorage, AK 99503.

Any person on the official service list for the above-captioned proceeding may request inclusion on the restricted service list, or may request that a restricted service list not be established, by filing a motion to that effect within 15 days of this notice date. In a request for inclusion, please identify the reason or reasons why there is an interest to be included. Also, please identify any concerns about historic properties, including properties of traditional religious and cultural importance to a federally recognized tribe or tribal corporation that has an affiliation to the area. If historic properties are identified within the motion, please use a separate page, and label it NON–PUBLIC INFORMATION.

The original and eight copies of any such motion must be filed with Kimberly D. Bose, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426, and must be served on each person whose name appears on the official service list. Please put the following on the first page: Snyder Falls Creek Project No. 13328–001. Motions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the "e-Filing" link.

If no such motions are filed, the restricted service list will be effective at the end of the 15 day period. Otherwise, a further notice will be issued ruling on any motion or motions filed within the 15 day period.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–9933 Filed 4–28–10; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9143–4]

Preliminary Listing of an Additional Water to Wisconsin's 2008 List of Waters Under Section 303(d) of the Clean Water Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice and request for comments.

SUMMARY: This notice announces the availability of EPA's decision identifying one water quality limited waterbody and associated pollutants in Wisconsin to be listed pursuant to the Clean Water Act Section 303(d)(2), and requests public comment. Section 303(d)(2) requires that States submit and EPA approve or disapprove lists of waters for which existing technology-based pollution controls are not stringent enough to attain or maintain State water quality standards and for which total maximum daily loads (TMDLs) must be prepared.

[1] 18 CFR 385.2010.

[2] 16 U.S.C. 470 (2006) *et seq.*

[3] 36 CFR part 800 (2009).

On January 26, 2010, EPA partially approved and partially disapproved Wisconsin's submittal. Specifically, EPA approved Wisconsin's listing of waters, associated pollutants, and associated priority rankings. EPA disapproved Wisconsin's decision not to list one water quality limited segment and associated pollutant. EPA identified this additional water body and unidentified pollutants along with priority rankings for inclusion on the 2008 Section 303(d) list.

EPA is providing the public the opportunity to review its decision to add the water and unidentified pollutant to Wisconsin's 2008 Section 303(d) list, as required by EPA's Public Participation regulations. EPA will consider public comments in reaching its final decision on the additional water body and pollutants identified for inclusion on Wisconsin's final list.

DATES: Comments on this document must be received in writing by June 1, 2010.

ADDRESSES: Written comments on today's notice may be submitted to Tinka G. Hyde, Director, Water Division, Attn: Illinois 303 (d) list, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. As an alternative, EPA will accept comments electronically. Comments should be sent to the following Internet E-mail Address: *keclik.donna@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Donna Keclik, Watersheds and Wetlands Branch, at the EPA address noted above or by telephone at (312) 886–6766. Some additional information can be found at *http://www.epa.gov/reg5oh2o/wshednps/notices.htm.*

SUPPLEMENTARY INFORMATION: Section 303(d) of the Clean Water Act (CWA) requires that each State identify those waters for which existing technology-based pollution controls are not stringent enough to attain or maintain State water quality standards. EPA's Water Quality Planning and Management regulations include requirements related to the implementation of Section 303(d) of the CWA (40 CFR 130.7). The regulations require States to identify water quality limited waters still requiring TMDLs every two years. The lists of waters still needing TMDLs must also include priority rankings and must identify the waters targeted for TMDL development during the next two years (40 CFR 130.7).

Consistent with EPA's regulations, Wisconsin submitted to EPA its listing decision under Section 303(d)(2) on August 1, 2008. On January 26, 2010, EPA approved Wisconsin's listing of waters and associated priority rankings and disapproved Wisconsin's decisions not to list one water quality limited segment and associated pollutants, along with priority rankings for inclusion on the 2008 Section 303(d) list. More specifically, EPA disapproved Wisconsin's decision not to include Musky Bay on the 2008 list for impairment because this water does not meet Wisconsin's narrative standard set out in Wisconsin Administrative Code NR 102.04 (1)(b), which provides that "Floating or submerged debris, oil, scum or other material shall not be present in such amounts as to interfere with public rights in waters of the State." As a result of EPA's disapproval decision, EPA is proposing to place Musky Bay on Wisconsin's 303(d) list. The list of waterbody/pollutants that EPA has approved and EPA's decision document are available at *http://www.epa.gov/reg5oh2o/wshednps/notices.htm.*

During its review of WDNR's proposed 303(d) list, EPA reviewed data available to the State that indicated the impairment of Musky Bay due to excessive nutrients. After reviewing the existing and readily available data, U.S. EPA has determined, for reasons discussed below, that Musky Bay should be included in Category 5A of Wisconsin's 2008 list of impaired waters.

During the 2008 public notice and comment period, WDNR received comments suggesting that the State should list Musky Bay for impairment due to the presence of excessive nutrients, including phosphorus, elevated pH values, as well as the degradation of the Bay due to large floating algal mats and the presence of an invasive plant species known as Curly Leaf Pondweed (*Potomogeton cripsus*).

The State determined that it would not list the Bay because Wisconsin does not have numeric criterian for phosphorus and WDNR did not believe that the available data provided a compelling rationale for listing. These data included water samples taken at four locations in the Bay. These locations are (1) MB–1, a deep hole in the Bay; (2) MB–2, the east outlet from the cranberry bog operation (an inlet to the lake); (3) MB–2a, the west outlet from the cranberry bog operation (an inlet to the lake); and (4) MB–4, the north shore line of the Bay.

After reviewing these data, WDNR determined that samples taken only from MB–1, the deep hole, were representative of the Bay because this location was centrally located and arguably provided a natural average of the various influences on the Bay's water quality, as represented by the other sample locations. After isolating the data for MB–4, WDNR concluded that sampling here showed lower phosphorous levels than at any other site, and that the Bay was not impaired due to phosphorus. WDNR stated that it will continue to monitor phosphorous levels in the Bay and will reconsider an impairment determination on the basis of phosphorus in 2010. Further, WDNR noted that the presence of curly leaf pondweed as an invasive aquatic species was not a sufficient basis for making an impairment determination.

While U.S. EPA agrees with the State that additional sampling is needed to make an impairment decision with regard to phosphorus, after reviewing available data, U.S. EPA determined that the Bay is impaired based on Wisconsin's narrative standard Wisc. Admin. Code NR 102.04 (1)(b), which provides that "Floating or submerged debris, oil, scum or other material shall not be present in such amounts as to interfere with public rights in waters of the State" and thus the Bay should be listed as a Category 5A water.

In making its listing proposal, U.S. EPA reviewed the information submitted during the State's public comment period and held subsequent discussions with WDNR staff. WDNR supplied a copy of a letter dated November 8, 2007, from WDNR to Lac Courte Oreilles Lake Association stating that "there are very significant water quality concerns for Musky Bay and that the cranberry bogs' discharge of nutrients is a major source of the problems." WDNR further stated in the letter that there are two suggestions that could be considered to help partially address the water quality/water use concerns:

> 1. Navigational corridors through the dense beds of aquatic plants could be maintained by mechanical harvesting or possibly herbicide application. This would improve access to the main lake by Musky Bay property owners and improve access to the bay by other lake users. Implementing this activity would be likely to enhance your argument that the public use of the bay is currently limited and costs are being incurred to address the limitation. * * *
>
> 2. Sources of nutrient loading other than the cranberry bogs could be assessed for application of nutrient loading reductions practices. Other agricultural areas and residential areas in Musky Bay watershed have been estimated to be the source of about 12% of the annual phosphorus load to the bay (Lac Courte Oreilles Conservation Department). * * * [1]

[1] See Letter from Tom Aartila, Upper Chippewa Basin Watershed Supervisor, WDNR, to Messrs. Siverton and Umland, November 8, 2007, attached

Based on the information submitted, including the documented impaired use of the Bay for boating, as evidenced by WDNR's acknowledgement of the need to cut navigational corridors through the heavy algal mats, U.S. EPA is proposing to list Musky Bay on the 2008 Wisconsin's 303(d) list in Category 5A.

EPA solicits public comment on its identification of one additional water and associated pollutant Musky Bay, pollutant unidentified for inclusion on Wisconsin's 2008 Section 303(d) list.

Dated: April 15, 2010.

Timothy C. Henry,

Acting Director, Water Division, EPA Region 5.

[FR Doc. 2010–9984 Filed 4–28–10; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities: Proposed Collection; Submission for OMB Review

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final notice of submission for OMB review.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Commission announces that it is submitting to the Office of Management and Budget (OMB) a request for an extension without change of the existing information collection request described below.

DATES: Written comments must be received on or before June 1, 2010.

ADDRESSES: A copy of this ICR and applicable supporting documentation submitted to OMB for review may be obtained from: Erin N. Norris, Senior Attorney, (202) 663–4876, Office of Legal Counsel, 131 M Street, NE., Washington, DC 20507. Comments on this final notice must be submitted to Chad Lallemand in the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or electronically mailed to *Chad_A._Lallemand@omb.eop.gov.* Comments should also be sent to Stephen Llewellyn, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 131 M Street, NE., Suite 6NE03F, Washington, DC 20507. Written comments of six or fewer pages may be faxed to the Executive Secretariat at (202) 663–4114. (There is no toll free FAX number.) Receipt of facsimile transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663–4070 (voice) or (202) 663–4074 (TTY). (These are not toll free numbers.)

FOR FURTHER INFORMATION CONTACT: Thomas J. Schlageter, Assistant Legal Counsel, (202) 663–4668, or Erin N. Norris, Senior Attorney, (202) 663–4876, Office of Legal Counsel, 131 M Street, NE., Washington, DC 20507. Copies of this notice are available in the following alternate formats: Large print, braille, electronic computer disk, and audio-tape. Requests for this notice in an alternative format should be made to the Publications Center at 1–800–699–3362 (voice), 1–800–800–3302 (TTY), or 703–821–2098 (FAX—this is not a toll free number).

SUPPLEMENTARY INFORMATION: A notice that EEOC would be submitting this request was published in the **Federal Register** on February 22, 2010, allowing for a 60-day public comment period. No comments were received.

Overview of This Information Collection

Type of Review: Extension—No change.

Collection title: Recordkeeping under Title VII and the ADA.

OMB number: 3046–0040.

Agency Form No.: None.

Frequency of Report: Other.

Type of Respondent: Employers with 15 or more employees.

Description of affected public: Employers with 15 or more employees are subject to Title VII and the ADA.

Number of responses: 899,580.

Reporting hours: One.

Federal cost: None.

Abstract: Section 709(c) of Title VII, 42 U.S.C. 2000e–8(c) and section 107(a) of the ADA, 42 U.S.C. 12117(a) require the Commission to establish regulations pursuant to which employers subject to those Acts shall make and preserve certain records to assist the EEOC in assuring compliance with the Acts' nondiscrimination in employment requirements. This is a recordkeeping requirement. Any of the records maintained which are subsequently disclosed to the EEOC during an investigation are protected from public disclosure by the confidentiality provisions of section 706(b) and 709(e) of Title VII which are also incorporated by reference into the ADA at section 107(a).

Burden statement: The estimated number of respondents is approximately 899,580 employers. The recordkeeping requirement does not require reports or the creation of new documents, but merely requires retention of documents that the employer has made or kept. Thus, the burden imposed by these regulations is minimal. The burden is estimated to be less than one hour per employer.

OMB is particularly interested in comments which:

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

(2) Evaluate the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Dated: April 26, 2010.

For the Commission.

Jacqueline A. Berrien,

Chair.

[FR Doc. 2010–9964 Filed 4–28–10; 8:45 am]

BILLING CODE 6570–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

April 23, 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, 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 e-mail message from Craig P. Roesler, WDNR to Donna Keclik, U.S. EPA, April 7, 2009.

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 June 28, 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 and Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Cathy Williams on (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0609.

Title: Section 76.934(e), Petitions for Extension of Time.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for–profit entities; State, local, or tribal governments.

Number of Respondents and Responses: 20 respondents and 10 responses.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Estimated Time per Response: 4 hours.

Total Annual Burden: 80 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 4(i) and 623 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: No need for confidentiality required with this collection of information.

Needs and Uses: 47 CFR 76.934(e) states that small cable systems may obtain an extension of time to establish compliance with rate regulations provided that they can demonstrate that timely compliance would result in severe economic hardship. Requests for the extension of time should be addressed to the local franchising authorities ("LFAs") concerning rates for basic service tiers and associated equipment.

Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary,

Office of Managing Director.

[FR Doc. 2010–9920 Filed 4–28–10; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review and Approval to the Office of Management and Budget (OMB), Comments Requested

April 22, 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 June 1, 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:

OMB Control Number: 3060–1134.

Title: Schools and Libraries Universal Service Support Program ("E–Rate") Broadband Survey.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Not–for–profit institutions and state, local or tribal government.

Number of Respondents and Responses: 25,000 respondents, 25,000 responses.

Estimated Time per Response: .25 hours.

Frequency of Response: One–time and on occasion reporting requirements.

Obligation to Respond: Voluntary. Statutory authority for this information collection is contained in 47 U.S.C.

sections 151 – 154, 201 – 205, 218 – 220, 254, 303(r) and 403 .

Total Annual Burden: 12,500 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: Although it is unlikely that the survey will solicit any confidential information, pursuant to 47 CFR 0.459 of the Commission's rules, a respondent may request that information submitted to the Commission not be put in the public record. The respondent must state the reasons, and the facts on which those reasons are based, for withholding the information from the public record. The appropriate Bureau or Office Chief of the Commission may grant a confidentiality request that presents, by a preponderance of the evidence, a case for non–disclosure consistent with the Freedom of Information Act (FOIA), 5 U.S.C. 552. If a confidentiality request is denied, the respondent has five days to appeal the decision before the Commission. If the appeal before the Commission is denied, the respondent has five days to seek a judicial stay.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget to obtain the full three year clearance from them. The Commission sought and received emergency OMB approval of this information collection in January 2010. Emergency OMB approvals are granted for only six months. Therefore, the Commission is seeking OMB approval for the full three year clearance. There is no change in the Commissions public reporting requirements. There is no change in the Commission's public burden estimates.

The American Recovery and Reinvestment Act (ARRA) of 2009 authorized the FCC to create the national Broadband Plan that shall seek to ensure hat all people of the United States have access to broadband capability and shall establish benchmarks for meeting that goal. Consistent with this effort, the Commission seeks to conduct a survey of all applicants under the Schools and Libraries Universal Service Program, also known as the E–Rate Program, to determine the current state of broadband usage and access within schools and libraries in the United States in order to determine how to best address their educational needs as part of the National Broadband Plan.

Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary,

Office of Managing Director.

[FR Doc. 2010–9919 Filed 4–28–10; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

April 22, 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 June 28, 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.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214. For additional information, contact Judith B. Herman, OMD, 202–418–0214, or email at judith–b.herman@fcc.gov .

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0807.

Title: Section 51.803 and Supplemental Procedures for Petitions Pursuant to Section 252(e)(5) of the Communications Act of 1934, as amended.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for–profit and state, local or tribal government.

Number of Respondents and Responses: 60 respondents; 60 responses.

Estimated Time Per Response: 40 hours per requirement.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 252(e)(5).

Total Annual Burden: 1,600 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting petitioners to submit confidential information to the Commission.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) after this comment period to obtain the full three year clearance from them. There is no change in the reporting and/or third party disclosure requirements. There is no change in the Commission's burden estimates.

Any interested party seeking preemption of a state commission's jurisdiction based on the state commission's failure to act shall notify the Commission as follows: 1) file with the Secretary of the Commission a detailed petition, supported by an affidavit, that states with specificity the basis for any claim that it has failed to act; and 2) serve the state commission and other parties to the proceeding on the same day that the party serves the petition on the Commission. Within 15 days of filing the petition, the state commission and parties to the proceeding may file a response to the petition.

In an OMB–approved Public Notice, DA 97–2540, the Commission set forth procedures for filing petitions for preemption pursuant to section 252(e)(5). Section 252(e)(5) provides that "if a state commission fails to act to carry out its responsibility under this section in any proceeding or other matter under this section, then the Commission shall issue an order preempting the state commission's jurisdiction of the proceeding or matter within 90 days after being notified (or taking notice) of such failure, and shall assume the responsibility of the state commission under this section with respect to the proceeding or matter and act for the state commission."

All of the requirements are used to ensure that petitioners have complied with their obligations under the Communications Act of 1934, as amended.

Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary,

Office of Managing Director.

[FR Doc. 2010–9917 Filed 4–28–10; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

April 22, 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 on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before June 28, 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.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214. For additional information, contact Judith B. Herman, OMD, 202–418–0214 or email Judith–b.herman@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0865.

Title: Wireless Telecommunications Bureau Universal Licensing System (ULS) Recordkeeping and Third Party Disclosure Requirements.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, business or other for–profit, not for–profit institutions, and state, local or tribal government.

Number of Respondents and Responses: 62,677 respondents; 62,677 responses.

Estimated Time Per Response: .166 hours to 4 hours.

Frequency of Response: On occasion reporting requirement, third party disclosure requirement and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 154(i) and 309(j).

Total Annual Burden: 89,117 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: Yes.

Nature and Extent of Confidentiality: There is a need for confidentiality with respect to all Private Land Mobile Radio (PLMRS) service filers in this information collection. Information on the private land mobile radio service licensees is maintained in the Commission's system of records, FCC/WTB–1, "Wireless Services Licensing Records." The licensee records will be publicly available and routinely used in accordance with subsection b. or the Privacy Act. FCC Registration Numbers (FRNs) and material which is afforded confidential treatment pursuant to a request made under 47 CFR 0.459 of the Commission's rules will not be publicly available for public inspection. Any personally identifiable information (PII) that individual applicants provide is covered by a system of records, FCC/WTB–1, "Wireless Services Licensing Records," and these and all other records may be disclosed pursuant to the Routine Uses as stated in this system of records notice.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) after this comment period to obtain the full three year clearance from them. There is no change in the Commission's reporting, recordkeeping and/or third party disclosure requirements. The Commission is reporting a 25,671 hour increase in the total annual burden. This increase adjustment is due to an adjustment in the number of responses by licensees who operate within the various service categories. The estimates were gathered from the Commission's Universal Licensing System (ULS) and CORES databases.

The purpose of this information collection is to streamline the set of rules which minimize filing requirements via the Universal Licensing System (ULS); to eliminate redundant and unnecessary submission requirements; and to assure ongoing collection of reliable licensing and ownership data. The recordkeeping and third party disclosure requirements, along with certifications which are made via filing FCC Form 601 are ways the Commission reduced the filing burdens on the industry. However, applicants must maintain records to document compliance with the requirements for which they provide certifications. In some instances third party coordination is required.

Previously, wireless applicants and licensees used a myriad of forms for various wireless services and types of requests, and the information provided on these applications had been collected in separate databases, each for a different group of services. That process has now been drastically improved, simplified and streamlined.

Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary,

Office of Managing Director.

[FR Doc. 2010–9918 Filed 4–28–10; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

DATE AND TIME: Thursday, April 29, 2010, at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (ninth floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Final Rules and Explanation and Justification—Non-Federal Fundraising Events.

DRAFT ADVISORY OPINION 2010–04: Wawa, Inc., by Mark N. Suprenant, General Counsel and Secretary.

DRAFT ADVISORY OPINION 2010–03:

National Democratic Redistricting Trust (NDRT), by Marc E. Elias and Kate S. Keane of Perkins Coie LLP, counsel.

Report of the Audit Division on the Tennessee Democratic Party (TDP).

Report of the Audit Division on Friends for Menor Committee.

Proposed Interim Enforcement Policy.

Management and Administrative Matters.

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Darlene Harris, Acting Commission Secretary, at (202) 694–1040, at least 72 hours prior to the hearing date.

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Darlene Harris,

Acting Secretary of the Commission.

[FR Doc. 2010–9767 Filed 4–28–10; 8:45 am]

BILLING CODE 6715–01–M

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 May 14, 2010.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. Hometown Bancshares, Inc. 401(k) Profit Sharing Plan (Tammy Rae Waggoner, Trustee), Middlebourne, West Virginia, to retain control of 10.77 percent of the outstanding voting shares of Hometown Bancshares, Inc., Middlebourne, West Virginia, and thereby retain shares of Union Bank, Middlebourne, West Virginia.

Board of Governors of the Federal Reserve System,

April 26, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–9955 Filed 4–28–10; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, e-mail *paperwork@hrsa.gov* or call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) The proposed collection of information for the proper performance of the functions of the agency; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project Title: Evaluation of the National Healthy Start Program (New).

Background: The National Healthy Start Program, funded through the Health Resources and Services Administration's (HRSA) Maternal and Child Health Bureau (MCHB), was developed in 1991 with the goal of reducing infant mortality disparities in high-risk populations through community-based interventions. The program originally began as a 5-year demonstration project within 15 communities that had infant mortality rates 1.5 to 2.5 times above the national average. The National Healthy Start Program has since expanded in size and mission to include 102 grantees across the Nation emphasizing a community-based, culturally competent approach to the delivery of care for women and their babies. MCHB seeks to conduct a cross-site evaluation of all Healthy Start grantees to document the accomplishments made by the National Healthy Start Program.

Purpose: The purpose of the survey is to collect consistent data on the services and activities of all 102 Healthy Start grantees. The data collected though this survey will be used to:

- Evaluate the grantees' performance and progress toward achieving short-term and long-term goals;
- Evaluate the relationship of performance and progress to implementation features of Healthy Start Program components;
- Assist MCHB in determining on a national level where technical assistance may be needed to improve program performance, set future priorities for program activities, and contribute to the overall strategic planning activities of MCHB; and
- Provide foundation data for future measurement of the initiative's long-term impact.

Respondents: The project directors of the Healthy Start grants will be the respondents for this data collection activity. The estimated response burden is as follows:

	Number of respondents	Responses per respondent	Total responses	Average hours per respondent	Total hour burden
Healthy Start Grantee Web Survey	102	1	102	4.0	408
Total	102	1	102	4.0	408

E-mail comments to *paperwork@hrsa.gov* or mail to the HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: April 20, 2010.

Sahira Rafiullah,

Director, Division of Policy and Information Coordination.

[FR Doc. 2010–9974 Filed 4–28–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; NIH Toolbox for Assessment of Neurological and Behavioral Function

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute on Aging (NIA), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

Title: NIH-Toolbox for Assessment of Neurological and Behavioral Function. *Type of Information Collection Request:* New. *Need and Use of Information Collection:* The overall goal of the Toolbox project is to develop unified, integrated methods and measures of four domains of neurological and behavioral functioning (cognitive, emotional, motor and sensory) for use in large longitudinal or epidemiological studies where functioning is monitored over time. The current phase ("Norming"), will involve a large sample of 5,660 for the purpose of establishing comparative norms. We will screen 52,800 households for members' age, gender and primary language to recruit the participants. The targeted population will be non-institutionalized U.S. residents, aged 3–85, with 66% English-speaking and 34% Spanish-speaking. *Frequency of Response:* Once to the screener, and once or twice (depending on subsample). *Affected Public:* Individuals. *Type of Respondents:* U.S. residents (persons aged 3–85 years). The annual reporting burden is as follows: *Estimated Number of Respondents:* 52,800 for the screener and 5,660 for the Toolbox measures; *Estimated Number of Responses per Respondent:* 1 screening and 1–2 for selected participants; *Average Burden Hours per Response:* For the screener, 0.1 and 2.49 for selected participants; and *Estimated Total Annual Burden Hours Requested:* 21,480. The annualized cost to respondents is estimated at: $393,250. There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report.

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Screening				
Household member	52,800	1	.1	5,280
Adults				
Not affiliated with participating child, single assessment	1710	1	3	5,130
Not affiliated with participating child, two assessments	350	2	3	2,100
Non-participating parent of participating child, single assessment	910	1	0.5	455
Non-participating parent of participating child, two assessments	350	2	0.5	350
Participating parent of participating child, single assessment	390	1	3.5	1,365
Participating parent of participating child, two assessments	150	2	3.5	1,050
Children				
Single assessment	1300	1	2.5	3,250
Two assessments	500	2	2.5	2,500
Totals	*54,600			21,480

*Includes one adult from each screened household plus selected child participants.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other

technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Molly Wagster, Ph.D., Division of Neuroscience, National Institute on Aging, NIH, DHHS, 7201 Wisconsin Avenue, Suite 350, Bethesda, Maryland 20892–9205 or call non-toll-free number 301–496–9350 or e-mail your request, including your address to: *wagsterm@nia.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: April 23, 2010.

Melissa Fraczkowski,

National Institute on Aging Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2010–10015 Filed 4–28–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. Docket No. FDA–2009–N–0506]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Bar Code Label Requirement for Human Drug and Biological Products

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 June 1, 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 0910–0537. 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.

Bar Code Label Requirement for Human Drug and Biological Products—OMB Control Number 0910–0537—Extension

In the **Federal Register** of February 26, 2004 (69 FR 9120), we issued new regulations that required human drug product and biological product labels to have bar codes. The rule required bar codes on most human prescription drug products and on over-the-counter (OTC) drug products that are dispensed under an order and commonly used in health care facilities. The rule also required machine-readable information on blood and blood components. For human prescription drug products and OTC drug products that are dispensed under an order and commonly used in health care facilities, the bar code must contain the National Drug Code number for the product. For blood and blood components, the rule specifies the minimum contents of the machine-readable information in a format approved by the Director, Center for Biologics Evaluation and Research as blood centers have generally agreed upon the information to be encoded on the label. The rule is intended to help reduce the number of medication errors in hospitals and other health care settings by allowing health care professionals to use bar code scanning equipment to verify that the right drug (in the right dose and right route of administration) is being given to the right patient at the right time.

Most of the information collection burden resulting from the final rule, as calculated in table 1 of the final rule (69 FR 9120 at 9149), was a one-time burden that does not occur after the rule's compliance date of April 26, 2006. In addition, some of the information collection burden estimated in the final rule is now covered in other OMB-approved information collection packages for FDA. However, parties may continue to seek an exemption from the bar code requirement under certain, limited circumstances. Section 201.25(d) (21 CFR 201.25(d)) requires submission of a written request for an exemption and describes the contents of such requests. Based on the number of exemption requests we have received, we estimate that approximately two exemption requests may be submitted annually, and that each exemption request will require 24 hours to complete. This would result in an annual reporting burden of 48 hours.

In the **Federal Register** of November 6, 2009 FR 74 57495, FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received on the information collection.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	Number of Respondents	Number of Responses per Respodent	Total Annual Responses	Hours per Response	Total Hours
201.25(d)	2	1	2	24	48

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: April 23, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–9902 Filed 4–28–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–D–0034]

Agency Information Collection Activities; Submission for Office and Management and Budget Review; Comment Request; Guidance for Industry on How to Submit a Notice of Final Disposition of Investigational Animals Not Intended for Immediate Slaughter in Electronic Format to the Center for Veterinary Medicine

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 June 1, 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 0910–0453. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Jr., Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3793.

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.

Guidance for Industry on How to Submit a Notice of Final Disposition of Investigational Animals Not Intended for Immediate Slaughter in Electronic Format to the Center for Veterinary Medicine—(OMB Control Number 0910–0453)—Extension

The Center for Veterinary Medicine (CVM) monitors the final disposition of investigational animals where such animals do not enter the human food chain immediately at the completion of an investigational study. CVM's monitoring of the final disposition of investigational food animals is intended to ensure that unsafe residues of new animal drugs do not get into the food supply. CVM issues a slaughter authorization letter to investigational new animal drug (INAD) sponsors that sets the terms under which investigational animals may be slaughtered (21 CFR 511.1(b)(5)). Also in the letter, CVM requests that sponsors submit a notice of final disposition of investigational animals (NFDA) not intended for immediate slaughter. NFDAs have historically been submitted to CVM on paper. CVM's guidance entitled "How to Submit a Notice of Final Disposition of Investigational Animals not Intended for Immediate Slaughter in Electronic Format to CVM" provides sponsors with an option to submit an NFDA as an e-mail attachment to CVM via the Internet.

The likely respondents are INAD sponsors.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section/ Form No. 3487	Number of Respondents	Annual Frequency per Response	Total Annual Responses[2]	Hours per Response	Total Hours
511.1(b)(5)	40	0.4	16	.08	1.3

[1] There are no capital or operating and maintenance costs associated with this collection of information.
[2] Electronic submissions received between January 1, 2008, and December 31, 2008.

The number of respondents in table 1 of this document are the number of sponsors registered to make electronic submissions (40). The number of total annual responses is based on a review of the actual number of such submissions made between January 1, 2008, and December 31, 2008. Thus, FDA estimates the total reporting burden at 1.3 hours (16 x .08= 1.3 total hours).

Dated: April 23, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–9901 Filed 4–28–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0055]

Agency Information Collection Activities; Submission for Office and Management and Budget Review; Comment Request; Guidance for Industry on How to Submit a Protocol Without Data in Electronic Format to the Center for Veterinary Medicine

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 June 1, 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 0910–0524. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Jr., Office of Information

Management, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–796–3793.

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.

Guidance for Industry on How to Submit a Protocol Without Data in Electronic Format to the Center for Veterinary Medicine—(OMB Control Number 0910–0524)—Extension

Protocols for nonclinical laboratory studies (safety studies), are required under 21 CFR 58.120 for approval of new animal drugs. Protocols for adequate and well-controlled effectiveness studies are required under 21 CFR 514.117(b). Upon request by the animal drug sponsors, the Center for Veterinary Medicine (CVM) reviews protocols for safety and effectiveness studies for which CVM and the sponsor consider this to be an essential part of the basis for making the decision to approve or not approve an animal drug application or supplemental animal drug application. The establishment of a process for acceptance of the electronic submission of protocols for studies conducted by sponsors in support of new animal drug applications, is part of CVM's ongoing initiative to provide a method for paperless submissions. Sponsors may submit protocols to CVM in paper format. CVM's guidance on how to submit a study protocol permits sponsors to submit a protocol without data as an e-mail attachment via the Internet. Further, this guidance also electronically implements provisions of the Government Paperwork Elimination Act (GPEA). The GPEA required Federal agencies, by October 21, 2003, to provide the following: (1) The option of the electronic maintenance, submission, or disclosure of information, if practicable, as a substitution for paper and (2) the use and acceptance of electronic signatures, where applicable. FDA Form 3536 is used to facilitate the use of electronic submission of protocols. This collection of information is for the benefit of animal drug sponsors, giving them the flexibility to submit data for review via the Internet.

The likely respondents are sponsors of new animal drug applications.

FDA estimates the burden for this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section/ Form No. 3536	Number of Respondents	Annual Frequency per Response	Total Annual Responses[2]	Hours per Response	Total Hours
514.117(b) & 58.120	40	1.8	72	20	14.4

[1] There are no capital or operating and maintenance costs associated with this collection of information.
[2] Electronic submissions received between January 1, 2008, and December 31, 2008.

The number of respondents in table 1 of this document is the number of sponsors registered to make electronic submissions (40). The number of total annual responses is based on a review of the actual number of such submissions made between January 1, 2008, and December 31, 2008, (72 x hours per response (.20) = 14.4 total hours)).

Dated: April 26, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–10023 Filed 4–28–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–D–0153]

Draft Guidance for Industry and Food and Drug Administration Staff; Food and Drug Administration and Industry Procedures for Section 513(g) Requests for Information Under the Federal Food, Drug, and Cosmetic Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled "Draft Guidance for Industry and FDA Staff; FDA and Industry Procedures for Section 513(g) Requests for Information Under the Federal Food, Drug, and Cosmetic Act." This draft guidance is not final nor is it in effect at this time. Elsewhere in this issue of the **Federal Register**, FDA is also publishing a notice of availability for a draft guidance entitled "Draft Guidance for Industry and FDA Staff; User Fees for 513(g) Requests for Information."

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 comments on this draft guidance before it begins work on the final version of the guidance, submit written or electronic comments on this draft guidance by July 28, 2010. Submit written or electronic comments on the collection of information by June 28, 2010.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written requests for single copies of the draft guidance document entitled "Draft Guidance for Industry and FDA Staff; FDA and Industry Procedures for Section 513(g) Requests for Information Under the Federal Food, Drug, and Cosmetic Act" to the Division of Small Manufacturers, International, and Consumer Assistance, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 4613, Silver Spring, MD 20993–0002, or to the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. The draft guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to CDRH to 301–847–8149. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments concerning this draft guidance and the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Heather S. Rosecrans, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm., 1532, Silver Spring, MD 20993–0002, 301–796–6571, or Steve Ripley, Center for Biologics Evaluation and Research, (HFM–17),

Food and Drug Administration, 1401 Rockville Pike, Suite 200N, Rockville, MD 20852, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

Section 513(g) of the Federal Food, Drug and Cosmetic Act (the act) (21 U.S.C. 360c(g) provides a means for obtaining the FDA's views about the classification and the regulatory requirements that may be applicable to a particular device. The purpose of this draft guidance is to establish procedures for submitting, reviewing, and responding to requests for information respecting the class in which a device has been classified or the requirements applicable to a device under the act that are submitted in accordance with section 513(g) of the act. FDA does not review data related to substantial equivalence or safety and effectiveness in a 513(g) Request for Information. FDA's responses to 513(g) Requests for Information are not device classification decisions and do not constitute FDA clearance or approval for marketing. Classification decisions and clearance or approval for marketing require submissions under different sections of the act. Additionally, the act, as amended by the FDA Amendments Act of 2007 (FDAAA) (Public Law 110–85), requires FDA to collect user fees for 513(g) Request for Information. Elsewhere in this issue of the **Federal Register**, FDA is also publishing a notice of availability for a draft guidance entitled "Draft Guidance for Industry and FDA Staff; User Fees for 513(g) Requests for Information."

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statutes and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. To receive "Draft Guidance for Industry and FDA Staff; FDA and Industry Procedures for Section 513(g) Requests for Information Under the Federal Food, Drug, and Cosmetic Act," you may either send an email request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 301–847–8149 to receive a hard copy. Please use the document number 1671 to identify the guidance you are requesting. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm* or on the CBER Internet site at *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm*. Guidance documents are also available at *http://www.regulations.gov*.

IV. Paperwork Reduction Act of 1995

Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Draft Guidance for Industry and FDA Staff: FDA and Industry Procedures for Section 513(g) Requests for Information Under the Federal Food, Drug, and Cosmetic Act.

Description: Section 513(g) of the act provides a means for obtaining the agency's views about the classification and the regulatory requirements that may be applicable to your particular device. Section 513(g) provides that within 60 days of the receipt of a written request of any person for information respecting the class in which a device has been classified or the requirements applicable to a device under this act, the Secretary of Health and Human Services shall provide such person a written statement of the classification (if any) of such device and the requirements of this act applicable to the device.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN[1]

FD&C Act 513(g)	Number of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
CDRH	110	1	110	12	1,320
CBER	4	1	4	12	48
Total					1,368

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA based its estimates on the number of 513(g) Requests for Information received by both CDRH and CBER in 2007–2009. Elsewhere in this issue of the **Federal Register**, FDA is publishing a document announcing the availability of a draft guidance document entitled "Draft Guidance for Industry and FDA Staff; User Fees for 513(g) Requests for Information."

This draft guidance also refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3502). The collections

of information in 21 CFR part 807, subpart E have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 814 have been approved under OMB control number 0910–0231; the collections of information in 21 CFR part 801 have been approved under OMB control number 0910–0485; the collections of information in 21 CFR 860.123 have been approved under OMB control number 0910–0138.

V. Comments

Interested persons may submit to the Division of Dockets Management (See **ADDRESSES**), written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified 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.

Dated: April 23, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–9937 Filed 4–28–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–D–0144]

Draft Guidance for Industry and Food and Drug Administration Staff; User Fees for 513(g); Requests for Information; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled "Draft Guidance for Industry and FDA Staff; User Fees for 513(g) Requests for Information." This draft guidance describes the user fees associated with 513(g) requests for information.

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 written or electronic comments on the draft guidance by July 28, 2010. Submit written or electronic comments on the collection of information June 28, 2010.

ADDRESSES: Submit written requests for single copies of the draft guidance entitled "Draft Guidance for Industry and FDA Staff; User Fees for 513(g) Requests for Information" to the Division of Small Manufacturers, International, and Consumer Assistance (DSMICA), WO66, rm. 4613, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, or to the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. The draft guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to CDRH to 301–847–8149. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments concerning this draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Heather S. Rosecrans, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., WO66, rm. 1532, Silver Spring, MD 20993, 301–796–6571, or Stephen Ripley, Center for Biologics Evaluation and Research, HFM–17, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

Section 513(g) of the Federal Food Drug and Cosmetic Act (act) (21 U.S.C. 360c(g)) provides a means for obtaining the FDA's views about classification information and the regulatory requirements that may be applicable to a particular device. Title II of the Food and Drug Administration Amendments Act of 2007 (FDAAA), also termed the Medical Device User Fee Amendments of 2007 (Public Law 110–85), extends FDA's authority to collect medical device user fees by establishing a fee for "a request for classification information." Elsewhere in this **Federal Register** we are publishing a document announcing the availability of a guidance document entitled "Draft Guidance for Industry and FDA Staff; FDA and Industry Procedures for Section 513(g) Requests for Information under the Federal Food, Drug, and Cosmetic Act." This guidance describes the procedures we recommend when seeking the Agency's views about classification information and regulatory requirements that may be applicable to a particular device.

II. Significance of Guidance

This draft guidance is being issued 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 user fees for requests for classification information submitted in accordance with section 513(g) of the act. 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. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. To receive "Draft Guidance for Industry and Food and Drug Administration Staff; User Fees for 513(g) Requests for Information," you may either send an e-mail request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a FAX request to 301–847–8149 to receive a hard copy. Please use the document number 1709 to identify the guidance you are requesting.

A search capability for all CDRH guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm*. Guidance documents are also available at *http://www.regulations.gov/search/Regs/home.html#home* or on the CBER Internet site at *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm*.

IV. Paperwork Reduction Act of 1995

Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section

3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Draft Guidance for Industry and FDA Staff: User Fees for 513(g) Requests for Information

Description: Section 513(g) of the act (21 U.S.C. 360c(g)) provides a means for obtaining the FDA's views about classification information and the regulatory requirements that may be applicable to a particular device. Title II of the Food and Drug Administration Amendments Act of 2007 (FDAAA), also termed the Medical Device User Fee Amendments of 2007, Public Law 110–85, extends FDA's authority to collect medical device user fees by establishing a fee for "a request for classification information." Form No. 3601, Medical Device User Fee Cover Sheet, is being revised to include the addition of user fees for 513(g) Request for Information.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Sec. 738(a)(2)(A)(ix) of FDAAA Sec.513(g) of the FD&C Act	Form FDA No.	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total hours
CDRH	3601	110	1	110	2	220
CBER	3601	4	1	4	2	8
Total Hours						228

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA based these estimates on the number of 513(g) Requests for Information received by CDRH and CBER during calendar year (CY) 2008. Elsewhere in this **Federal Register** we are publishing a document announcing the availability of a draft guidance document entitled "Guidance for Industry and FDA Staff; FDA and Industry Procedures for Section 513(g) Requests for Information under the Federal Food, Drug, and Cosmetic Act." This guidance describes the procedures we recommend when seeking the Agency's views about classification information and regulatory requirements that may be applicable to a particular device. The burden estimate is based on the amount of time needed to satisfy the completion of these procedures.

This draft guidance also refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR 807 subpart E have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 814 have been approved under OMB control number 0910–0231.

V. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**), written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified 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.

Dated: April 23, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–9938 Filed 4–28–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0210]

Front-of-Pack and Shelf Tag Nutrition Symbols; Establishment of Docket; Request for Comments and Information

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of docket; request for comments and information.

SUMMARY: The Food and Drug Administration (FDA) is announcing the establishment of a docket to obtain data and other information that will inform the agency's deliberations about ways to enhance the usefulness to consumers of point-of-purchase nutrition information, such as information on the principal display panel of food products ("front-of-pack" labeling) or on shelf tags in retail stores. In particular, FDA is interested in the following: Data and information on the extent to which consumers notice, use, and understand nutrition symbols on front-of-pack labeling of food packages or on shelf tags in retail stores; research assessing and comparing the effectiveness of particular possible approaches to front-

of-pack labeling; graphic design, marketing, and advertising data and information that can inform and guide the development of better point-of-purchase nutrition information; and the extent to which point-of-purchase nutrition information may affect decisions by food manufacturers to reformulate products. The goal of this front-of-pack nutrition labeling effort is to maximize the number of consumers who readily notice, understand, and use point-of-purchase information to make more nutritious choices for themselves and their families. FDA is establishing this docket in order to provide an opportunity for interested parties to provide data and information and share views that will inform future agency actions with respect to these matters.

DATES: Submit electronic or written comments by July 28, 2010.

ADDRESSES: 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.

FOR FURTHER INFORMATION CONTACT: Chung-Tung Jordan Lin, Center for Food Safety and Applied Nutrition (HFS–020), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 301–436–1831.

SUPPLEMENTARY INFORMATION:

I. Background

The Nutrition Labeling and Education Act of 1990 (NLEA) (Public Law 101–535) amended the Federal Food, Drug, and Cosmetic Act (the act) to require nutrition labeling on packaged foods and to provide for the use of nutrient content claims and health claims in food labeling. The purpose of these amendments was to enable consumers to make more informed and healthier food choices in the context of their daily diet. In 1993, FDA established regulations that implemented NLEA. Among those regulations, FDA set forth general principles for nutrient content claims (21 CFR 101.13), which are claims that characterize the level of a nutrient in a food (e.g., "low fat," "good source of fiber") and for health claims, which are claims that characterize the relationship of a food substance to a disease or health-related condition (e.g., "calcium may reduce the risk of osteoporosis"). The cornerstone of the NLEA is the requirement that packaged foods bear product-specific information on serving size, calories, and nutrient content (21 CFR 101.2(b) and (d)). For conventional foods, this information is provided in a Nutrition Facts box on the package label. FDA's final regulations establishing nutrition labeling were published in 1993 (58 FR 2079, January 6, 1993).

An important goal of NLEA was to make available to consumers nutrition information that can assist them in selecting foods that contribute to healthier diets. Research conducted by FDA and others shows that many consumers use the Nutrition Facts box in their food choices (Ref. 1). Yet, as Margaret A. Hamburg, the Commissioner of Food and Drugs, noted recently, "Today, ready access to reliable information about the calorie and nutrient content of foods is even more important, given the prevalence of obesity and diet-related diseases in the United States" (Ref. 2). Data published by the U.S. Centers for Disease Control and Prevention (CDC) indicate that 68 percent of the U.S. adult population is overweight or obese (Ref. 3), and among children 2 to 19 years old, nearly 32 percent were at or above the 85th percentile for body-mass index on CDC's 2000 age- and sex-specific growth charts, which are based primarily on data from the 1960s and 1970s (Ref. 4). Body mass index (BMI) is a weight-to-height ratio. High BMI among children and adults is a significant public health concern in the United States. Children with high BMI often become obese adults, and obese adults are at risk for many chronic conditions such as diabetes, cardiovascular disease, and certain cancers. Healthy eating must be incorporated into the habits and diets of children to promote healthy lifelong practices to prevent obesity and chronic disease. First Lady Michelle Obama recently announced a coordinated national campaign to reduce the prevalence of overweight and obesity in the United States particularly among children (Ref. 5).

The prevalence of diet-related diseases in the U.S. population and the need to accommodate Americans' increasingly busy lifestyles and demand for quick and nutritious food choices illustrate the importance of tailoring nutrition information to help consumers. FDA and others in the public health community, as well as consumer and industry groups, are actively exploring ways to improve the usefulness of food labeling to consumers.

A number of U.S. food processors and retailers are now incorporating nutrition symbols and other nutrition-related representations on food packages, particularly symbols intended to denote nutritional quality of a food (e.g., the Smart Choices checkmark (Ref. 6)), selected nutrient level disclosures (e.g., Kellogg's Nutrition at a Glance (Ref. 7)), and nutrient content claims. Because this information is usually placed on the principal display panels (PDPs) of food packages, it is commonly referred to as front-of-pack (FOP) labeling, and we use that term as a synonym for principal display panel in this document.[1] Nutrition symbol schemes have also been used in other countries, including the United Kingdom (Ref. 8) and Sweden (Ref. 9). In addition, some retailers have been adding nutrition symbols on the shelf tags of foods sold in the store to provide information about the overall nutritional quality of the food (e.g., Guiding Stars (Ref. 10)) or the levels of selected nutrients it contains.

FDA and the U.S. Department of Agriculture are working with public and private stakeholders to develop a voluntary FOP nutrition label that is driven by sound nutrition criteria, consumer research, and design expertise. Research should be designed to support the choice of an FOP label that will achieve the goal and satisfy the criteria for success outlined in the following paragraphs.

The goal of an FOP nutrition label is to increase the proportion of consumers who readily notice, understand, and use the available information to make more nutritious choices for themselves and their families, and thereby prevent or reduce obesity and other diet-related chronic disease. FDA believes that information in front-of-pack labeling can be useful to supplement the information in the Nutrition Facts box. In addition, because of its prominent location, front-of-pack labeling may provide a more convenient and effective information tool for consumers seeking quick and accurate information about the nutritional quality of the food they are purchasing and accessing, and using this information may serve to educate consumers and to help them make healthier food choices. It is also possible that information disclosed in front-of-pack labeling may foster industry reformulation of products because some consumers may notice the information and make their product selection accordingly. Through these mechanisms of improved consumer understanding and use of nutrition information and product reformulation, it is possible that a well-designed and science-based front-of-pack nutrition labeling program could bring about significant positive

[1] Under 21 CFR 101.1, the PDP of a food in package form is defined as the part of the label "that is most likely to be displayed * * * or examined under customary conditions of display for retail sale." It is usually, but not always, on the front of the food package.

changes in Americans' diet and play a role in lowering the incidence and prevalence of diet-related disease in the United States.

To be successful in achieving this goal, a front-of-pack label should be:

- Based on standardized nutrition criteria that are grounded in the Dietary Guidelines for Americans (Ref. 11), which provides science-based advice to promote health and reduce the risk of chronic disease;
- Widely adopted by food retailers and manufacturers;
- In a standardized format consumers can readily notice, understand, and use;
- Designed to enable consumers with a wide range of literacy, educational levels, age, and other characteristics to compare the relative healthiness of products within and across food categories in the context of routine food shopping.

FDA has already begun developing a scientific foundation for decisionmaking on nutrition symbols and front-of-pack labeling. The agency held a public hearing in September 2007 (Ref. 12) and completed a focus group study in April 2008 to obtain comments and information about consumer issues related to the use of nutrition symbols on front-of-pack labeling and shelf tags. The public hearing notice requested comments on a number of consumer research questions, including consumer attitudes about nutrition symbols, how consumers interpret such symbols, how the presence of multiple and different symbols on products in the same food category and across categories affects consumer perceptions, how nutrition symbols interact with the Nutrition Facts box, and whether such symbols affect consumers' ability to make good dietary choices. On April 21, 2009, FDA released a document entitled "Comments on Symbols Public Hearing and Current Plans for Addressing Issues" (Ref. 13). This document describes the questions FDA requested comments on in the public hearing notice, the comments that FDA received at the public hearing and that were submitted to the public docket for the hearing, FDA's remarks on the comments received, and FDA's current plans for evaluating issues regarding the use of nutrition symbols in food labeling.

Although the public hearing generated some useful information on consumer issues related to nutrition symbols, very limited data and research were submitted to the agency. To fill remaining gaps in our knowledge base, in addition to opening this docket, FDA has designed and begun to implement a plan to conduct consumer research on nutrition symbols (Refs. 14 and 15). Currently, FDA is conducting two experimental studies to help enhance the agency's knowledge about consumer understanding and use of a selected sample of nutrition symbol schemes currently in use in the domestic market, and to examine whether those schemes or certain others are better ways to impart useful nutrition information to U.S. consumers.

In addition, FDA believes the food industry has acquired extensive market experience with consumer reaction to nutrition symbols since 2005, when the voluntary use of nutrition symbols in food labeling began to proliferate in the U.S. market. FDA also is aware that many foreign governments, industry groups, food manufacturers, consumer advocacy groups, and academic researchers have conducted or are conducting consumer research on nutrition symbols. Although some of this research is publicly available (see Refs. 16 through 24), most of it remains unpublished and unavailable to the agency. Because there are limitations to the currently available published literature, we are particularly interested in obtaining access to unpublished research. For example, we are interested in research on a much wider range of nutrition symbol schemes than has been examined in the literature. In addition, studies seldom compare consumer responses to different symbol schemes. Finally, most of the publicly available research was done in European or other countries whose labeling requirements and regulatory framework are quite different from those in the United States. As a result, it is unclear whether and to what extent such findings derived from these studies are applicable to the U.S. market.

In addition to developing the scientific foundation for agency decisionmaking with respect to nutrition symbols and other front-of-pack labeling information, FDA is considering a number of other efforts to help guide food manufacturers in their use of front-of-pack labeling, such as issuance of a draft guidance on voluntary calorie declarations and a draft guidance and/or a proposed rule on dietary guidance statements.

II. Request for Comments and Information

FDA is interested in a range of data and information relevant to the use of front-of-pack nutrition symbol schemes on food packages or shelf tags, to include research concerning:

- Consumer perception and consumer behavior;
- The assessment and comparison of the effectiveness of particular possible approaches to front-of-pack labeling;
- Graphic design, package design, information architecture, advertising, marketing, and human factors that affect noticeability, understandability and use; and
- The extent to which point-of-purchase nutrition information may affect decisions by food manufacturers to reformulate products.

These data and other information will be used to inform the agency's deliberations about approaches to enhancing the usefulness to consumers of point-of-purchase nutrition information, such as information on the front-of-pack or on shelf tags in retail stores, and to fostering decisions by food manufacturers to reformulate products.

FDA solicits comment, data, and information from all interested parties, domestic and foreign, including consumers, industry, graphic designers, package designers, marketing experts, the nutrition community, and others with specific expertise in nutrition and in conveying scientific information to ordinary citizens. FDA is particularly interested in the following topics:

Design Considerations

1. Design features from labels used in the United States or in other countries that are viewed as superior in ensuring consumer attention, understanding and use, i.e., features that attract attention, make it easier for consumers to understand how foods with a nutrition symbol fit into a healthy diet, enhance the credibility of the symbol, and encourage use of the symbol in purchase decisions. Examples of such features could include:
   - Color;
   - Location;
   - Contrast.

2. The risk of "too much clutter" on the label. For example:
   - The point at which a format is sufficiently "overpacked" to put off consumers;
   - How many nutrients can be included in a nutrient-specific approach without creating information overload or putting off consumers;
   - An easy-to-understand range (e.g., on a scale of 0 to 3 or 1 to 5) for use in ranking the overall nutritional value of a food; and
   - Whether a certain amount of blank space is needed around FOP nutrition symbols to maximize the chances that consumers will notice and comprehend them.

3. Whether certain shapes (such as stars or checks) have inherent meaning.

4. The size of an FOP symbol relative to the rest of the package.

5. Factors that influence ease of comprehension (e.g., whether a symbol scheme is easy enough for consumers to understand at a glance (3 seconds or less) in a crowded grocery store), particularly in terms of:

- The amount of information;
- The words (e.g., sodium versus salt; the term "daily value"); or

6. Whether a uniform FOP symbol across product categories helps consumer recognition, understanding, trust and use of the symbol.

B. Consumer Use and Understanding

7. Consumer attitudes toward nutrition symbols in general;

8. Consumer attitudes toward different types of symbols, e.g.:

- FOP vs. shelf tag;
- Nutrient-specific symbol (such as General Mills' nutrition highlights) (Ref. 25) vs. a summary symbol (such as Smart Choices (Ref. 6)); and
- Symbols with and without an explicit endorsement from a third party such as the American Heart Association (e.g., the Heart-Check Mark (Ref. 26));

9. Consumer attitudes toward products or brands that carry a nutrition symbol compared to:

- Other products or brands in the same product category (e.g., breakfast cereals) that do not carry a nutrition symbol; and
- Products or brands in other categories that do not carry such a symbol.

10. Consumer interpretations of symbol-carrying products or brands in terms of:

- Their overall healthfulness and quality;
- Specific health benefits;
- Featured nutrition attributes;
- Non-featured nutrition attributes; and
- Any other non-nutrition attributes.

11. Consumer perception of and reaction to the presence of multiple and different nutrition symbols on the FOP or shelf tags of different brands in a given product category (e.g., breakfast cereals);

12. Consumer interpretation of the co-existence on the food label of symbols and other nutrition messages (e.g., a nutrient content claim);

13. Consumer interpretation of the co-existence on the food label of nutrition symbols and quantitative nutrition information (e.g., the Nutrition Facts box);

14. Consumer interpretation of the co-existence of FOP nutrition symbols and nutrition symbols on shelf tags;

15. The extent to which consumers notice nutrition symbols;

16. When consumers use nutrition symbols and the purposes for which consumers use nutrition symbols, under time, pressure, and otherwise;

17. Whether and to what extent nutrition symbols on food labels and shelf tags direct consumers toward purchasing brands or foods that bear them and, if so, whether the shift in purchase is accompanied with a displacement of purchase of other brands or foods;

18. Whether symbols affect the nutritional quality of the overall diet of consumers who use the symbols and, if so, to what extent;

19. The differences, if any, in consumer response to nutrition symbols when all products in a given category carry symbols, compared to when only some products in the category carry symbols;

20. The differences, if any, in consumer response to nutrition symbols among various demographic subgroups, such as subgroups differentiated by:

- Level of education;
- Interest in or concern about nutrition or health;
- Age;
- Race;
- Role as shopper (e.g., primary shoppers for the household vs. other consumers); and
- Income.

21. The differences, if any, in consumer response to nutrition symbols in the labeling of various product categories, such as:

- Snacks;
- Meals;
- Dairy products; and
- Vegetables and fruits.

22. Evidence, if any, that use of symbols helps:

- Reduce time needed for product selection;
- Improve nutritional quality of choices; or
- Both.

23. Consumer perceptions when there are multiple health messages or nutrition symbols (e.g., some related to nutrition and others related to organoleptic or process attributes) on a given package.

In addition to comments submitted in response to this document, FDA will consider those previously submitted to the agency for the following **Federal Register** documents and dockets.

- "Food Labeling; Use of Symbols to Communicate Nutrition Information, Consideration of Consumer Studies and Nutritional Criteria; Public Hearing; Request for Comments" (72 FR 39815, July 20, 2007) (Docket No. 2007–N–0198, formerly Docket No. 2007N–0277);
- "Agency Information Collection Activities; Proposed Collection; Comment Request; Experimental Study of Nutrition Symbols on Food Packages" (74 FR 26244, June 1, 2009) (Docket No. FDA–2009–N–0220); and
- "Agency Information Collection Activities; Proposed Collection; Comment Request; Experimental Studies of Nutrition Symbols on Food Packages" (74 FR 62786, December 1, 2009) (Docket No. FDA–2009–N–0220).

Data and information submitted to these previous dockets do not need to be resubmitted.

III. Submission of Comments and Information

FDA has established a public docket to provide an opportunity for interested parties to submit consumer research and design information to inform the development of a government-sponsored nutrition symbol program to help consumers make informed dietary choices and to provide the food industry incentives to make more nutritious food products available.

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) electronic or written comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified 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. References

FDA has placed the following references on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday. (FDA has verified the Web site addresses, but FDA is not responsible for any subsequent changes to Web sites after this document publishes in the **Federal Register**.)

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13. FDA, "Comments on Symbols Public Hearing and Current Plans for Addressing Issues," Available at *http://www.regulations.gov/search/Regs/home.html#documentDetail?R=09000064809623e8*, April 21, 2009.

14. FDA, "Agency Information Collection Activities; Proposed Collection; Comment Request; Experimental Study of Nutrition Symbols on Food Packages," (74 FR 26244, June 1, 2009), Available at *http://edocket.access.gpo.gov/2009/E9-12669.htm*.

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Dated: April 26, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–9939 Filed 4–26–10; 11:15 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory General Medical Sciences Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the 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 Advisory General Medical Sciences Council.

Date: May 20–21, 2010.

Closed: May 20, 2010, 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, Conference Rooms E1 & E2, 45 Center Drive, Bethesda, MD 20892.

Open: May 21, 2010, 8:30 a.m. to Adjournment.

Agenda: For the discussion of program policies and issues, opening remarks, report of the Director, NIGMS, and other business of the Council.

Place: National Institutes of Health, Natcher Building, Conference Rooms E1 & E2, 45 Center Drive, Bethesda, MD 20892.

Contact Person: Ann A. Hagan, PhD, Associate Director for Extramural Activities, NIGMS, NIH, DHHS, 45 Center Drive, Room 2AN24H, MSC6200, Bethesda, MD 20892–6200, (301) 594–4499, *hagana@nigms.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nigms.nih.gov/about/advisory_council.html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96,

Special Minority Initiatives, National Institutes of Health, HHS)

Dated: April 23, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–9987 Filed 4–28–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of meetings of the National Advisory Neurological Disorders and Stroke Council.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Neurological Disorders and Stroke Council, Clinical Trials Subcommittee.

Date: May 26–27, 2010.

Closed: May 26, 2010, 6:30 p.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Open: May 27, 2010, 8 a.m. to 9:30 a.m.

Agenda: To discuss clinical trials policy.

Place: National Institutes of Health, Building 31, 31 Center Drive, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Contact Person: Petra Kaufmann, MD, Director, Office of Clinical Research, NINDS, National Institutes of Health, Neuroscience Center, Room 2216, 6001 Executive Blvd. (301) 496–9135. *Kaufmanp2@ninds.nih.gov.*

Name of Committee: National Advisory Neurological Disorders and Stroke Council, Basic and Preclinical Programs Subcommittee.

Date: May 27, 2010.

Time: 8 a.m. to 9:30 a.m.

Agenda: To discuss basic and preclinical policy.

Place: National Institutes of Health, Building 31, 31 Center Drive, 6th Floor, Conference Room 7, Bethesda, MD 20892.

Contact Person: William D. Matthew, PhD, Director, Office of Translational Research, NINDS, National Institutes of Health, Neuroscience Center, Room 2137, 6001 Executive Blvd. (301) 496–1779. *Bill.Matthew@nih.gov.*

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.ninds.nih.gov,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: April 23, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–9986 Filed 4–28–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, Coordinating Center for Infectious Diseases (CCID)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the cancellation of the May 2010 meeting of the aforementioned board. Due to unanticipated circumstances and scheduling conflicts, the board does not have the quorum required to convene.

Contact Person for More Information: Leola Mitchell, Office of the Director, CCID, CDC, 1600 Clifton Road, NE., Mailstop K–74, Atlanta, Georgia 30333, e-mail *fvp9@cdc.gov*, telephone (770) 488–8366.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: April 21 2010.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2010–9953 Filed 4–28–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Board on Radiation and Worker Health (ABRWH or Advisory Board), National Institute for Occupational Safety and Health (NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), and pursuant to the requirements of 42 CFR 83.15(a), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

Board Public Meeting Times and Dates (All times are Eastern Time)

8:15 a.m.–4:30 p.m., May 19, 2010.
8:15 a.m.–6 p.m., May 20, 2010.
8:15 a.m.–12 p.m., May 21, 2010.

Public Comment Times and Dates (All times are Eastern Time)

4:30 p.m.–6 p.m.,* May 19, 2010.
6 p.m.–7:30 p.m.,* May 20, 2010.

*Please note that the public comment periods may end before the times indicated, following the last call for comments. Members of the public who wish to provide public comment should plan to attend public comment sessions at the start times listed.

Place: Crowne Plaza Hotel, 300 3rd Street, Niagara Falls, New York; Phone: 716–285–3361; Fax: 716–285–3900. Audio Conference Call via FTS Conferencing. The USA toll free dial in number is 1–866–659–0537 with a pass code of 9933701.

Status: Open to the public, limited only by the space available. The meeting space accommodates approximately 200 people.

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program (EEOICP) Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines which have been promulgated by the Department of Health and Human Services (HHS) as a final rule, advice on methods of dose reconstruction which have also been

promulgated by HHS as a final rule, advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program, and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to the CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, and will expire on August 3, 2011.

Purpose: This Advisory Board is charged with (a) Providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advise the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters to be Discussed: The agenda for the Advisory Board meeting includes: NIOSH Program Update and Program Evaluation Plans; Department of Labor (DOL) Program Update; Department of Energy (DOE) Program Update; Board Surrogate Data Criteria; Special Exposure Cohort (SEC) petitions for: Mound Plant, Hooker Electrochemical (Niagara Falls, New York), Linde Ceramics Plant (Tonawanda, New York), St. Louis Airport Storage Site, Weldon Spring Plant (St. Louis, Missouri), Blockson Chemical Company, Chapman Valve Manufacturing Company, Los Alamos National Laboratory, Bethlehem Steel Company (Lackawanna, New York), De Soto Avenue Facility (Los Angeles County, CA), Downey Facility (Los Angeles County, CA), University of Rochester Atomic Energy Project, BWX Technologies (Lynchburg, VA); SEC Petition Status Updates; Subcommittee and Work Group Reports; and Board Working Time.

The agenda is subject to change as priorities dictate.

In the event an individual cannot attend, written comments may be submitted in accordance with the redaction policy provided below. Any written comments received will be provided at the meeting and should be submitted to the contact person below well in advance of the meeting.

Policy on Redaction of Board Meeting Transcripts (Public Comment), (1) If a person making a comment gives his or her name, no attempt will be made to redact that name. (2) NIOSH will take reasonable steps to ensure that individuals making public comment are aware of the fact that their comments (including their name, if provided) will appear in a transcript of the meeting posted on a public Web site. Such reasonable steps include: (a) A statement read at the start of each public comment period stating that transcripts will be posted and names of speakers will not be redacted; (b) A printed copy of the statement mentioned in (a) above will be displayed on the table where individuals sign up to make public comment; (c) A statement such as outlined in (a) above will also appear with the agenda for a Board Meeting when it is posted on the NIOSH Web site; (d) A statement such as in (a) above will appear in the **Federal Register** Notice that announces Board and Subcommittee meetings. (3) If an individual in making a statement reveals personal information (*e.g.,* medical information) about themselves that information will not usually be redacted. The NIOSH FOIA coordinator will, however, review such revelations in accordance with the Freedom of Information Act and the Federal Advisory Committee Act and if deemed appropriate, will redact such information. (4) All disclosures of information concerning third parties will be redacted. (5) If it comes to the attention of the Designated Federal Officer (DFO) that an individual wishes to share information with the Board but objects to doing so in a public forum, the DFO will work with that individual, in accordance with the Federal Advisory Committee Act, to find a way that the Board can hear such comments.

Contact Person for More Information: Theodore Katz, M.P.A., Executive Secretary, NIOSH, CDC, 1600 Clifton Road, MS E–20, Atlanta, GA 30333, Telephone (513) 33–6800, Toll Free 1 (800) CDC–INFO, E-mail *ocas@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: April 21, 2010.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2010–9952 Filed 4–28–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Part D Comprehensive Services and Access to Research for Women, Infants, Children and Youth Grant Under the Ryan White HIV/AIDS Program

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice of Non-Competitive Part D Award Funds for the Mecklenburg County Health Department and Duke University.

SUMMARY: HRSA will be awarding non-competitive Part D funds to the Mecklenburg County Health Department in order to ensure continuity of critical HIV medical care and treatment services, and to avoid a disruption of HIV clinical care and support services to women, infants, children, and youth in the Charlotte, North Carolina and surrounding counties. HRSA will also be awarding non-competitive Part D Funds to Duke University in order to ensure continuity of critical HIV medical care and treatment services, and to avoid a disruption of HIV clinical care and support services to women, infants, children, and youth in the central North Carolina area.

SUPPLEMENTARY INFORMATION:

Grantee of record: Metrolina AIDS Project.

Intended recipients of the award: Mecklenburg County Health Department, Charlotte, North Carolina and Duke University, Durham, North Carolina.

Amount of the award: To each recipient, $239,136 (initial 6-month award) and $431,680 (anticipated 12-month award) to ensure ongoing HIV clinical and support services to the target population.

Authority: Section 2671 of the Public Health Service Act, 42 U.S.C. 300ff–51.

CFDA Number: 93.918.

Project period: February 1, 2010 to July 31, 2011. The period of support for this award is from February 1, 2010 to July 31, 2011.

Justification for the Exception to Competition

Funding for critical HIV medical care, treatment, and support services to women, infants, children, and youth in the Charlotte, North Carolina and central North Carolina areas, will be continued through non-competitive awards to the Mecklenburg County Health Department and Duke University, respectively, as each has the fiscal and administrative infrastructure to administer the Part D Grant. These are temporary replacement awards. The previous grant recipient serving this population notified HRSA that it was closing and could not continue providing Part D services after January 31, 2010. This recipient served two distinct service areas with its Part D Grant, and no other entity has the capacity to serve both areas. HRSA's HIV/AIDS Bureau identified the Mecklenburg County Health Department and Duke University as the best qualified Grantees for these awards. The Mecklenburg County Health Department is also the Part A Grant administrator that ensures accessibility to health care services for these clients. Duke University was the primary contractor

for the central North Carolina area that ensured accessibility to health care services for these clients. The Mecklenburg County Health Department and Duke University can provide comprehensive services, including primary medical care and antiretroviral therapies; prevention education and medication adherence teaching; referrals for mental health, substance abuse and dental services; and on-site medical HIV case management services, as well as additional family-centered support services. The additional funding provided would enhance retaining the targeted population in care.

The Mecklenburg County Health Department and Duke University are to provide critical services, with the least amount of disruption to the service population while the service area is re-competed. The initial awards will provide funding for 6 months, based on satisfactory performance, continued need, and continued availability of funds. A second and final award for these services will be awarded for 12-months. This supplement will cover the time period from February 1, 2010 to July 31, 2011. This service area will be included in the upcoming competition for the Part D Comprehensive Services and Access to Research for Women, Infants, Children, and Youth for project periods starting August, 2011.

FOR FURTHER INFORMATION CONTACT: Kathleen Treat, by e-mail *ktreat@hrsa.gov,* or by phone, 301–443–7602.

Dated: April 22, 2010.

Mary K. Wakefield,

Administrator.

[FR Doc. 2010–9968 Filed 4–28–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Agency Information Collection Activities; Proposals, Submissions, and Approvals: CIS Ombudsman Case Problem Submission Worksheet, DHS Form 7001 and Virtual Ombudsman System

AGENCY: Office of the Citizenship and Immigration Service Ombudsman, DHS.

ACTION: 60-Day Notice and request for comments; Revision of an existing information collection, 1601–0004.

SUMMARY: The Department of Homeland Security, Office of the Citizenship and Immigration Service Ombudsman, will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

DATES: Comments are encouraged and will be accepted until June 28, 2010. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Written comments and questions about this Information Collection Request should be forwarded to Office of the Citizenship and Immigration Services Ombudsman, DHS, Attn.: Director of Communications, Mail Stop 1225, Washington, DC 20528–1225. Comments may also be submitted to DHA via facsimile to 202–272–8352, 202–357–0042 or via e-mail at *rfs.regs@dhs.gov* or *cisombudsman@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Department of Homeland Security would like to revise the currently approved collection of information to migrate from a paper based only collection process to a collection process that allows the submitter to provide the information by a paper document or electronically. The information is currently collected via a Worksheet designated as DHS Form 7001.

The CIS Ombudsman is an independent office that reports directly to the Deputy Secretary of Homeland Security. The system will collect and maintain records of correspondence received from individuals, employers, and designated representatives. In accordance with the Privacy Act of 1974, DHS is issuing a system of records notice for the CISOMB Virtual Ombudsman records. This record system will allow CISOMB to collect the same information historically collected by a paper copy of DHS Form 7001. CISOMB intends to continue to receive and process correspondence received from individuals, employers, and their designated representatives in order to: (1) Assist individuals and employers in resolving problems with U.S. Citizenship and Immigration Services (USCIS); (2) identify areas in which individuals and employers have problems in dealing with USCIS; and (3) to the extent possible, propose changes to mitigate problems as mandated by 6 U.S.C. 272. This new system will be included in the Department's inventory of record systems. CISOMB will continue to receive cases through DHS Form 7001, Case Problem Submission Worksheet and Supporting Statement Case Problem Submission Form, which is posted on the DHS CISOMB Internet Web site at *http://www.dhs.gov* as a fillable PDF form; and will also offer the submitter an option to provide the information via CISOMB's online form 7001 (same title) that is transmitted electronically with any relevant documentation to CISOMB for further processing. CISOMB reviews all information for completeness and scans all documentation into the CISOMB account within the Internet Quorum/Enterprise Correspondence Tracking (IQ/ECT) system as a case record and forwards electronically, as appropriate, along with any attachments, to USCIS for further action. Currently, CISOMB converts every case problem submission to Adobe.pdf format for resolution.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Analysis

Agency: Office of the Citizenship and Immigration Services Ombudsman, DHS.

Title: CIS Ombudsman Case Problem Submission Worksheet.

OMB Number: 1601–0004.

Frequency: One Time Response.

Affected Public: Individuals or households.

Number of Respondents: 2,600.

Estimated Time per Respondent: 1 hour.

Total Burden Hours: 2,600 annual hours.

Dated: April 11, 2010.

Richard A. Spires,

Chief Information Officer.

[FR Doc. 2010–9960 Filed 4–28–10; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1899–DR; Docket ID FEMA–2010–0002]

New York; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New York (FEMA–1899–DR), dated April 16, 2010, and related determinations.

DATES: *Effective Date:* April 16, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 16, 2010, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the State of New York resulting from severe storms and flooding during the period of March 13–15, 2010, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of New York.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Albert Lewis, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of New York have been designated as adversely affected by this major disaster:

Nassau, Orange, Richmond, Rockland, Suffolk, and Westchester Counties for Public Assistance.

All counties within the State of New York are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–9921 Filed 4–28–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1898–DR; Docket ID FEMA–2010–0002]

Pennsylvania; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Pennsylvania (FEMA–1898–DR), dated April 16, 2010, and related determinations.

DATES: *Effective Date:* April 16, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 16, 2010, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the Commonwealth of Pennsylvania resulting from severe winter storms and snowstorms during the period of February 5–11, 2010, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the Commonwealth of Pennsylvania.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance and Hazard Mitigation in the designated areas. You are further authorized to provide emergency protective measures, including snow assistance, under the Public Assistance program for any continuous 48-hour period during or proximate to the incident period. You may extend the period of assistance, as warranted. For the authorized area, the time period for emergency protective measures, including snow assistance, under the Public Assistance program is extended from 48 hours to 72 hours. This assistance excludes regular time costs for the sub-grantees' regular employees.

Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Regis Leo Phelan, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the Commonwealth of Pennsylvania have been designated as adversely affected by this major disaster:

Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Chester, Cumberland, Dauphin, Delaware, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Juniata, Lancaster, Lebanon, Perry, Philadelphia, Somerset, Westmoreland, and York Counties for Public Assistance.

Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Chester, Cumberland, Dauphin, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Juniata, Lancaster, Lebanon, Perry, Philadelphia, Somerset, Westmoreland, and York Counties for emergency protective measures (Category B), including snow assistance, under the Public Assistance program for any continuous 48-hour period during or proximate to the incident period.

Delaware County for emergency protective measures (Category B), including snow

assistance, under the Public Assistance program for any continuous 72-hour period during or proximate to the incident period.

Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Chester, Cumberland, Dauphin, Delaware, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Juniata, Lancaster, Lebanon, Perry, Philadelphia, Somerset, Washington, Westmoreland, and York Counties are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–9880 Filed 4–28–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2010–0023]

Recovery Policy RP9523.3, Provision of Temporary Relocation Facilities

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of availability; request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) is accepting comments on Recovery Policy RP9523.3, *Provision of Temporary Relocation Facilities.* This is an existing policy that is scheduled for review to ensure that Recovery Directorate policies are up to date, incorporate lessons learned and are consistent with current laws and regulations. The purpose of this policy is to provide guidance on determining eligibility for and duration of temporary facilities under the Public Assistance Program.

DATES: Comments must be received by June 1, 2010.

ADDRESSES: Comments must be identified by docket ID FEMA–2010–0023 and may be submitted by one of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments. Please note that this proposed policy is not a rulemaking and the Federal Rulemaking Portal is being utilized only as a mechanism for receiving comments.

Mail: Regulation & Policy Team, Office of Chief Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, DC 20472–3100.

FOR FURTHER INFORMATION CONTACT: Michele Gast, Public Assistance Division, via e-mail at *Michele.Gast@dhs.gov* or by facsimile at (202) 646–3304. If you have any questions, please call Ms. Gast at (202) 646–2706, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Instructions: All submissions received must include the agency name and docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice, which can be viewed by clicking on the "Privacy Notice" link in the footer of *http://www.regulations.gov.*

You may submit your comments and material by the methods specified in the **ADDRESSES** section above. Please submit your comments and any supporting material by only one means to avoid the receipt and review of duplicate submissions.

Docket: The proposed policy is available in docket ID FEMA–2010–0023. For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov* and search for the docket ID. Submitted comments may also be inspected at FEMA, Office of Chief Counsel, Room 835, 500 C Street, SW., Washington, DC 20472.

II. Background

This policy provides guidance on determining eligibility for and duration of a temporary facility under the FEMA Public Assistance Program. As a result of major disasters and emergencies, services provided at public and private nonprofit (PNP) facilities may be disrupted to the extent that they cannot continue unless they are temporarily relocated to another facility. Applicants may request temporary facilities to continue that service.

Section 403 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), Public Law 93–288, as amended, authorizes FEMA to provide Federal assistance to meet immediate threats to life and property resulting from a major disaster. Specifically, Section 403(a)(3)(D) of the Stafford Act allows for the provision of temporary facilities for schools and other essential community services, when it is related to saving lives and protecting and preserving property or public health and safety. In the draft updated policy, FEMA is proposing to include libraries and other private non-profit facilities that demonstrate they provide eligible health and safety services as eligible facilities for temporary relocation.

FEMA seeks comment on the proposed policy, which is available online at *http://www.regulations.gov* in docket ID FEMA–2010–0023. Based on the comments received, FEMA may make appropriate revisions to the proposed policy. Although FEMA will consider any comments received in the drafting of the final policy, FEMA will not provide a response to comments document. When or if FEMA issues a final policy, FEMA will publish a notice of availability in the **Federal Register** and make the final policy available at *http://www.regulations.gov.*

Authority: 42 U.S.C. 5121–5207; 44 CFR part 206.

Robert Farmer,

Deputy Director, Office of Policy and Program Analysis, Federal Emergency Management Agency.

[FR Doc. 2010–9980 Filed 4–28–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Renewal of Agency Information Collection for Acquisition of Trust Land; Request for Comments

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of submission to the Office of Management and Budget.

SUMMARY: As required by the Paperwork Reduction Act, the Bureau of Indian Affairs (BIA) is submitting the information collection to the Office of Management and Budget (OMB) for renewal: Acquisition of Trust Land, 25

CFR part 151, OMB Control Number 1076–0100. This information collection expires April 30, 2010. The information collection allows BIA to ensure compliance with regulatory and statutory requirements for taking land into trust on behalf of individual Indians or Indian tribes.

DATES: Interested persons are invited to submit comments on or before June 1, 2010.

ADDRESSES: You may submit comments on the information collection to the Desk Officer for Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an e-mail to: *OIRA_DOCKET@omb.eop.gov.* Please send a copy of your comments to Darryl LaCounte, Bureau of Indian Affairs, Division of Real Estate Services, 316 N. 26th Street, Billings, MT 59601; facsimile: (406) 247–7991; e-mail: *Darryl.LaCounte@bia.gov.*

FOR FURTHER INFORMATION CONTACT: Darryl LaCounte (406) 247–7945.

SUPPLEMENTARY INFORMATION:

I. Abstract

BIA is seeking renewal of the approval for the information collection conducted under 25 CFR part 151, Land Acquisitions, for the United States to take land into trust for individual Indians and Indian tribes. This information collection allows BIA to review applications for compliance with regulatory and statutory requirements. No specific form is used. No third party notification or public disclosure burden is associated with this collection. There is no change to the approved burden hours for this information collection.

II. Request for Comments

BIA published a notice requesting comments on renewal of this information collection on February 18, 2010. See 75 FR 7285. Two commenters responded to that notice. Several of their comments would require regulatory changes to implement. The remaining comments suggested improvements to technology for exchanging electronic documents and to process for controlling versions. BIA is investigating these improvements. The BIA requests that you send your comments on this collection to the location listed in the **ADDRESSES** section. Your comments should address: (a) The necessity of the information collection for the proper performance of the agency, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents, such as through the use of automated collection techniques or other forms of information technology.

Please note that an agency may not sponsor or conduct, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the Bureau of Indian Affairs, Division of Real Estate Services, 316 N. 26th Street, Billings, MT 59601, during the hours of 9 a.m.–5 p.m., Local Time, Monday through Friday except for legal holidays. Before including your address, phone number, e-mail address or other personally identifiable information, be advised that your entire comment—including your personally identifiable information—may be made public at any time. While you may request that we withhold your personally identifiable information, we cannot guarantee that we will be able to do so.

III. Data

OMB Control Number: 1076–0100.

Title: Acquisition of Trust Land, 25 CFR 151.

Brief Description of Collection: Submission of this information allows BIA to review applications for the acquisition of land into trust status by the United States on behalf of individual Indians and Indian tribes, pursuant to 25 CFR part 151. The information also allows the Secretary to comply with the National Environmental Policy Act and to determine if title to the subject property is marketable and unencumbered. No specific form is used, but respondents supply information and data in accordance with 25 CFR part 151, so that BIA may make an evaluation and determination on the application. Response is required to obtain a benefit.

Type of Review: Extension without change of a currently approved collection.

Respondents: Individual Indians and Indian tribes seeking acquisition of land into trust status.

Number of Respondents: 1,000.

Total Number of Responses: 1,000.

Frequency of Response: Once per each tract of land to be acquired.

Estimated Time per Response: Ranges from 60 to 110 hours.

Estimated Total Annual Burden: 67,800 hours.

Dated: April 20, 2010.

Alvin Foster,

Acting Chief Information Officer—Indian Affairs.

[FR Doc. 2010–9898 Filed 4–28–10; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Renewal of Agency Information Collection for Grazing Permits; Request for Comments

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Submission to the Office of Management and Budget.

SUMMARY: As required by the Paperwork Reduction Act, the Bureau of Indian Affairs (BIA) is submitting the information collection, titled "Grazing Permits, 25 CFR 166" to the Office of Management and Budget (OMB) for renewal. The information collection is currently authorized by OMB Control Number 1076–0157, which expires April 30, 2010. The information collection requires anyone seeking to obtain, modify, or assign a grazing permit for grazing on Indian trust or restricted land to submit certain information for review by the BIA.

DATES: Interested persons are invited to submit comments on or before *June 1, 2010.*

ADDRESSES: You may submit comments on the information collection to the Desk Officer for Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an e-mail to: *OIRA_DOCKET@ omb.eop.gov.* Please send a copy of your comments to David Edington, Office of Trust Services, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW., Mail Stop 4655, Washington, DC 20240, facsimile: (202) 219–0006, or e-mail *David.Edington@bia.gov.*

FOR FURTHER INFORMATION CONTACT: You may request further information or obtain copies of the information collection request submission from David Edington, telephone: (202) 513–0886.

SUPPLEMENTARY INFORMATION:

I. Abstract

The BIA is seeking renewal and revision of the information collection conducted under 25 CFR part 166, related to grazing on trust or restricted land. This information collection allows BIA to receive the information necessary

to determine whether an applicant to obtain, modify, or assign a grazing permit on trust or restricted lands is eligible and complies with all applicable grazing requirements. Some of this information is collected on forms that are being revised or newly instituted. Currently approved forms have been updated to simplify language and update regulatory citations. New forms have been put in place to implement existing regulatory requirements. No third party notification or public disclosure burden is associated with this collection. Adjustments were made to the approved burden hours for this information collection to better account for the process of obtaining a grazing permit and to account for previously unidentified information collection requirements contained in existing regulatory requirements.

II. Request for Comments

The BIA published a notice seeking public comment on February 25, 2010. See 75 FR 8731. No comments were received in response to that notice. The BIA requests that you send your comments on this collection to the locations listed in the **ADDRESSES** section. Your comments should address: (a) The necessity of the information collection for the proper performance of the agencies, including whether the information will have practical utility; (b) the accuracy of the agencies' estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents, such as through the use of automated collection techniques or other forms of information technology.

Please note that an agency may not sponsor or conduct, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the BIA location listed in the **ADDRESSES** section during the hours of 9 a.m.–5 p.m., Eastern Time, Monday through Friday except for legal holidays. Before including your address, phone number, e-mail address or other personally identifiable information, be advised that your entire comment—including your personally identifiable information—may be made public at any time. While you may request that we withhold your personally identifiable information, we cannot guarantee that we will be able to do so.

III. Data

OMB Control Number: 1076–0157.
Title: Grazing Permits, 25 CFR 166.
Brief Description of Collection: Submission of this information allows individuals or organizations to obtain a grazing permit on trust or restricted land and provide notice with regard to land that is the subject of a grazing permit. This information collection also allows individual Indians to provide authority to BIA to grant grazing privileges on allotments they own. Some of this information is collected on the following forms: Form 5–5423—Performance Bond, Form 5–5514—Bid for Grazing Privileges, Form 5–5515—Grazing Permit, Form 5–5516—Grazing Permit for Organized Tribes, Form 5–5519—Cash Penal Bond, Form 5–5521—Certificate and Application for On-and-Off Grazing Permit, Form 5522—Modification of Grazing Permit, Form 5–5523—Assignment of Grazing Permit, Form 5–5524—Application for Allocation of Grazing Privileges, Form 5–5525—Authority to Grant Grazing Privileges on Allotted Lands, Form 5–5527—Stock Counting Record, and Form 5–5529—Removable Range Improvement Records. Response is required to obtain or retain a benefit.
Type of Review: Revision of a currently approved collection.
Respondents: Tribes, tribal organizations, individual Indians, and non-Indian individuals.
Number of Respondents: 8,200 individual Indian allottee landowners and 1,000 tribes, tribal organizations, and individuals.
Total Number of Responses: 12,820.
Estimated Time per Response: 20 minutes.
Estimated Total Annual Burden: 4,272 hours.
Total Annual Non-Hour Cost to Respondents: $0.

Alvin Foster,
Chief Information Officer—Indian Affairs.
[FR Doc. 2010–9886 Filed 4–28–10; 8:45 am]
BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Renewal of Agency Information Collection for Loan Guarantee, Insurance, and Interest Subsidy Program; Request for Comments

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Submission to the Office of Management and Budget.

SUMMARY: As required by the Paperwork Reduction Act, the Department of the Interior (DOI), Office of Indian Energy and Economic Development (IEED), is submitting the information collection for the Loan Guarantee, Insurance, and Interest Subsidy Program to the Office of Management and Budget (OMB) for revision. The information collection is currently authorized by OMB Control Number 1076–0020, which expires April 30, 2010. The information collection allows IEED to ensure compliance with Program requirements and includes the use of several forms.

DATES: Interested persons are invited to submit comments on or before *June 1, 2010.*

ADDRESSES: You may submit comments on the information collection to the Desk Officer for Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an e-mail to: *OIRA_DOCKET@omb.eop.gov.* Please send a copy of your comments to Molly Kubiak, Office of Indian Energy and Economic Development, U.S. Department of the Interior, 1951 Constitution Ave., NW., Mail Stop 20–SIB, Washington, DC 20245; facsimile: (202) 208–4564; or e-mail: *molly.kubiak@bia.gov*.

FOR FURTHER INFORMATION CONTACT: Molly Kubiak, (202) 208–0121.

SUPPLEMENTARY INFORMATION:

I. Abstract

The IEED is seeking revision and renewal of the approval for the information collection conducted under 25 CFR 103, implementing the Loan Guarantee, Insurance, and Interest Subsidy Program, established by 25 U.S.C 1451 *et seq*. The information collection allows IEED to determine the eligibility and credit-worthiness of respondents and loans and otherwise ensure compliance with Program requirements. This information collection includes the use of several forms. The forms have been revised to reflect the current organization of the program office as being within the Office of the Assistant Secretary—Indian Affairs, rather than within the Bureau of Indian Affairs, and to change the form numbers. The following chart shows the new form numbers.

Previous Form No.	New Form No.	Form name
5–4753	LGA10	Loan Guarantee Agreement.
5–4754	LIA10	Loan Insurance Agreement.
5–4754a	NIL10	Notice of Insured Loan.
5–4755	RLG10	Request to the Department of the Interior for Loan Guarantee, Loan Insurance, or Interest Subsidy.
5–4749	ISR10	Indian Affairs Interest Subsidy Report.
5–4759	ALD10	Assignment of Loan Documents and Related Rights.
5–4760a	NOD10	Notice of Default.
5–4760b	CFL10	Claim for Loss.

Material changes were made to the Loan Guarantee Agreement form, LGA10, to reflect the program change increasing the threshold amounts from $1,000,000 to $2,000,000 in average outstanding balance and minimum outstanding balance to obtain "preferred lender" and "performance lender" designations. The Department also updated both its Loan Guarantee Agreement form and Loan Insurance Agreement form to increase the timeframe in which closing must occur following issuance of a loan guarantee certificate from 60 to 90 days and to add provisions that will allow the Department to publicize successful financing projects.

The Department has also adjusted its burden hour estimates based on past experience with the program, refining the number of applications it expects to receive and the time it takes to complete them.

II. Request for Comments

The Department requests that you send your comments on this collection to the location listed in the **ADDRESSES** section. Your comments should address: (a) The necessity of the information collection for the proper performance of the agencies, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents, such as through the use of automated collection techniques or other forms of information technology.

Please note that an agency may not sponsor or conduct, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the Office of Indian Energy and Economic Development, U.S. Department of the Interior, 1951 Constitution Ave., NW., Mail Stop 20–SIB, Washington, DC 20245 during the hours of 9 a.m.–5 p.m., Eastern Time, Monday through Friday except for legal holidays. Before including your address, phone number, e-mail address or other personally identifiable information, be advised that your entire comment—including your personally identifiable information—may be made public at any time. While you may request that we withhold your personally identifiable information, we cannot guarantee that we will be able to do so.

The OMB has up to 60 days to make a decision on the submission for renewal, but may make the decision after 30 days. Therefore, to receive the best consideration of your comments, you should submit them closer to 30 days than 60 days.

III. Data

OMB Control Number: 1076–0020.

Title: Loan Guarantee, Insurance, and Interest Subsidy, 25 CFR 103.

Brief Description of Collection: Submission of this information allows IEED to implement the Loan Guarantee, Insurance, and Interest Subsidy Program, 25 U.S.C. 1451 *et seq.,* the purpose of which is to encourage private lending to individual Indians and Indian organizations by providing lenders with loan guarantees or loan insurance to reduce their potential risk. The information collection allows IEED to determine the eligibility and credit-worthiness of respondents and loans and otherwise ensure compliance with Program requirements. This information collection includes the use of several forms. Response is required to obtain a benefit.

Type of Review: Revision of a currently approved collection.

Respondents: Lenders, including commercial banks, and borrowers, including individual Indians and Indian organizations.

Number of Respondents: 295.

Total Number of Responses: 1,357.

Frequency of Response: As needed.

Estimated Time per Response: Ranging from 0.5 to 2 hours.

Estimated Total Annual Burden: 2,644 hours.

Dated: April 20, 2010.

Alvin Foster,

Acting Chief Information Officer—Indian Affairs.

[FR Doc. 2010–9883 Filed 4–28–10; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Renewal of Agency Information Collection for Tax Credit Bonds for Bureau of Indian Affairs-Funded Schools; Comment Request

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of submission to the Office of Management and Budget.

SUMMARY: As required by the Paperwork Reduction Act, the Office of Facilities, Environmental, and Cultural Resources (OFECR), in the Office of the Assistant Secretary—Indian Affairs, is submitting the following information collection to the Office of Management and Budget (OMB) for renewal: "Tax Credit Bonds for Bureau of Indian Affairs-Funded Schools," OMB Control Number 1076–0173. The current approval expires on April 30, 2010.

DATES: Submit comments on or before June 1, 2010.

ADDRESSES: You may submit comments on the information collection to the Desk Officer for Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an e-mail to: *OIRA_DOCKET@omb.eop.gov.* Please send a copy of your comments to Bernadette Myers, U.S. Department of the Interior, Office of Facilities, Environmental and Cultural Resources, 2051 Mercator Drive, Reston, Virginia 20191; or e-mail to: *Bernadette.Myers@bia.gov.*

FOR FURTHER INFORMATION CONTACT: Bernadette Myers (703) 390–6655.

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection allows OFECR to receive written applications for allocations of the $400,000,000 in Tax Credit Bonding Authority granted to the Secretary as a result of the American Reinvestment and Recovery Act of 2009 (ARRA) of 2009. This bonding authority is for the purpose of the construction, rehabilitation and repair of BIA-funded schools. Indian tribes interested in obtaining an allocation of the bonding authority to finance construction, rehabilitation, or repair of a BIA-funded elementary or secondary school or dormitory must provide certain information as part of the application. The information collection allows OFECR to determine whether the project is eligible to be considered for an allocation. No third party notification or public disclosure burden is associated with this collection. OFECR obtained an emergency approval of this information collection from OMB to allow it to solicit applications for tax credit bonds. *See* 74 FR 56211 (October 30, 2009). OMB's approval for the information collection expires April 30, 2010. Because the tax credit bond authority extends through calendar year 2010, OFECR is requesting a renewal of the OMB authority to collect information from Indian tribes through applications.

The Paperwork Reduction Act of 1995 provides an opportunity for interested parties to comment on information collection requests. OFECR is proceeding with this public comment period as the first step in obtaining renewal of the information collection clearance from OMB. OFECR has adjusted its estimated number of respondents and responses downward based on its experience during the first six months of collecting this information. Each clearance request contains (1) type of review, (2) title, (3) summary of the collection, (4) respondents, (5) frequency of collection, (6) reporting and record keeping requirements.

II. Request for Comments

If you would like to comment on this information collection, please send your comments to the location listed in the **ADDRESSES** section. Your comments should address: (a) The necessity of the information collection for the proper performance of the agencies, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents, such as through the use of automated collection techniques or other forms of information technology.

Please note that an agency may not sponsor or conduct and an individual need not respond to a collection of information unless it has a valid OMB Control Number. It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section during the hours of 9 a.m.–5 p.m., Eastern Time, Monday through Friday except for legal holidays. Before including your address, telephone number, e-mail address or other personally identifiable information, be advised that your entire comment—including your personally identifiable information—may be made public at any time. While you may request that we withhold your personally identifiable information, we cannot guarantee that we will be able to do so.

III. Data

OMB Control Number: 1076–0173.

Type of Review: Extension of a currently approved collection.

Title: Tax Credit Bonds for Bureau of Indian Affairs-Funded Schools.

Brief Description of Collection: Submission of this information is required to apply for allocations of the $400,000,000 in Tax Credit Bonding Authority granted to the Secretary as a result of the ARRA of 2009. This bonding authority is for the purpose of the construction, rehabilitation and repair of BIA-funded schools. The information collection allows BIA to determine whether the project is eligible to be considered for an allocation. No third party notification or public disclosure burden is associated with this collection. Response is required to obtain a benefit.

Respondents: Indian tribal governments.

Number of Respondents: 4.

Estimated Time per Response: 40 hours.

Frequency of Response: Once, on occasion.

Total Annual Burden to Respondents: 160 hours.

Alvin Foster,

Acting Chief Information Officer—Indian Affairs.

[FR Doc. 2010–9882 Filed 4–28–10; 8:45 am]

BILLING CODE 4310–4M–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Renewal of Agency Information Collection for Federal Acknowledgment of Indian Tribes; Request for Comments

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of submission to the Office of Management and Budget.

SUMMARY: As required by the Paperwork Reduction Act, the Department of the Interior, Office of Federal Acknowledgment (OFA) is submitting the information collection Documented Petitions for the Federal Acknowledgment as an Indian Tribe, 25 CFR part 83 to the Office of Management and Budget (OMB) for renewal. The information collection is currently authorized by OMB Control Number 1076–0104, which expires April 30, 2010. The information collection allows OFA to determine whether an Indian group meets the regulatory criteria for acknowledgment as an Indian Tribe.

DATES: Interested persons are invited to submit comments on or before June 1, 2010.

ADDRESSES: You may submit comments on the information collection to the Desk Officer for Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an e-mail to: *OIRA_DOCKET@omb.eop.gov.* Please send a copy of your comments to R. Lee Fleming, Director, Office of Federal Acknowledgment, Assistant Secretary—Indian Affairs, 1951 Constitution Avenue, NW., MS–34B SIB, Washington, DC 20240; facsimile: (202) 219–3008; e-mail: *Lee.Fleming@bia.gov.*

FOR FURTHER INFORMATION CONTACT: R. Lee Fleming (202) 513–7650.

SUPPLEMENTARY INFORMATION:

I. Abstract

OFA is seeking renewal of the approval for the information collection conducted under 25 CFR part 83, to establish whether a petitioning group has the characteristics necessary to be acknowledged as having a government-to-government relationship with the United States. Acknowledgment as an Indian Tribe is a prerequisite to the protection, services and benefits of the Federal government available to Indian Tribes by virtue of their status as Indian Tribes. Approval for this collection expires April 30, 2010. Three forms are used as part of this information collection; but no changes to the forms

are proposed as part of this renewal. No third party notification or public disclosure burden is associated with this collection. There is no change to the approved burden hours for this information collection.

II. Request for Comments

OFA requests that you send your comments on this collection to the location listed in the **ADDRESSES** section. Your comments should address: (a) The necessity of the information collection for the proper performance of the agencies, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents, such as through the use of automated collection techniques or other forms of information technology.

Please note that an agency may not sponsor or conduct, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number. This information collection expires April 30, 2010.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section during the hours of 9 a.m.–5 p.m., Eastern Time, Monday through Friday except for legal holidays. Before including your address, phone number, e-mail address or other personally identifiable information, be advised that your entire comment—including your personally identifiable information—may be made public at any time. While you may request that we withhold your personally identifiable information, we cannot guarantee that we will be able to do so.

III. Data

OMB Control Number: 1076–0104.

Title: Documented Petitions for Federal Acknowledgment as an Indian Tribe, 25 CFR Part 83.

Brief Description of Collection: Submission of this information allows OFA to review applications for the Federal acknowledgment of a group as an Indian Tribe. The acknowledgment regulations at 25 CFR part 83 contain seven criteria that unrecognized groups seeking Federal acknowledgment as Indian Tribes must demonstrate that they meet. Information collected from petitioning groups under these regulations provide anthropological, genealogical and historical data used by the Assistant Secretary—Indian Affairs to establish whether a petitioning group has the characteristics necessary to be acknowledged as having a government-to-government relationship with the United States. Respondents are not required to retain copies of information submitted to OFA but will probably maintain copies for their own use; therefore, there is no recordkeeping requirement included in this information collection. Response is required to obtain a benefit.

Type of Review: Extension without change of a currently approved collection.

Respondents: Groups petitioning for Federal acknowledgment as Indian Tribes.

Number of Respondents: 10 per year, on average.

Total Number of Responses: 10 per year, on average.

Frequency of Response: Once.

Estimated Time per Response: 2,075 hours.

Estimated Total Annual Burden: 20,750 hours.

Dated: April 20, 2010.

Alvin Foster,

Acting Chief Information Officer—Indian Affairs.

[FR Doc. 2010–9909 Filed 4–28–10; 8:45 am]

BILLING CODE 4310–G1–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAK927000 L54200000 FR0000 LVDIL09L0410; FF–94683]

Notice of Application for a Recordable Disclaimer of Interest for Lands Underlying the Tanana River in Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The State of Alaska has filed an application with the Bureau of Land Management (BLM) for a Recordable Disclaimer of Interest from the United States in those lands underlying the Tanana River in Interior Alaska. The State asserts that the Tanana River was navigable and unreserved at the time of Statehood; therefore title to the submerged lands passed to the State at the time of Statehood (1959).

DATES: All comments to this action should be received on or before July 28, 2010.

ADDRESSES: Comments on the State of Alaska's application or the BLM Draft Summary Report must be filed with the Chief, Branch of Survey Planning and Preparation (AK–927), Division of Cadastral Survey, BLM Alaska State Office, 222 W. 7th Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Callie Webber, Navigability Section Chief, at the above address, (907) 271–3167, or *cwebber@blm.gov,* or visit the BLM Recordable Disclaimer of Interest Web site at *http://www.blm.gov/ak/st/en/prog/rdi.html.*

SUPPLEMENTARY INFORMATION: On March 10, 2006, the State of Alaska filed an application for a Recordable Disclaimer of Interest pursuant to section 315 of the Federal Lands Policy and Management Act and the regulations contained in 43 CFR subpart 1864 for the lands underlying the Tanana River (FF–94683). A Recordable Disclaimer of Interest, if issued, will confirm that the United States has no valid interest in the subject lands. The notice is intended to notify the public of the pending application and the State's reasons for supporting it. The State asserts that this river was navigable at the time of Statehood, and therefore, ownership of the lands underlying the river automatically passed from the United States to the State at the time of Statehood in 1959, pursuant to the Equal Footing Doctrine, the Submerged Lands Act of 1953, the Submerged Lands Act of 1988, the Alaska Statehood Act, or any other legally cognizable reason.

The State's application, FF–94683, is for "all submerged lands lying within the bed of the Tanana River, between the ordinary high water lines of the left and right banks from its origins at the confluence with the Chisana and the Nabesna Rivers within Section 29 and 30, Township 15 North, Range 19 East, Copper River Meridian, Alaska, flowing generally northwesterly to all points of confluence with the Yukon River in Section 23, Township 4 North, Range 22 West, Fairbanks Meridian, Alaska." The State did not identify any known adverse claimant or occupant of the affected lands.

A final decision on the merits of the application will not be made before July 28, 2010. During the 90-day period, interested parties may comment on the State's application, FF–94683, and supporting evidence. Interested parties may also comment during this time on the BLM's Draft Summary Report.

Comments, including names and street addresses of commenters, will be available for public review at the Alaska State Office (*see* **ADDRESSES** above), during regular business hours 7:30 a.m. to 4:30 p.m., Monday through Friday, except holidays.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

If the evidence is sufficient to find a determination of navigability for title purposes, and the records do not disclose a reason not to issue the disclaimer, and there is no valid objection by another Federal agency, then the application may be approved.

Authority: 43 CFR subpart 1864.

Michael H. Schoder,

Deputy State Director, Division of Cadastral Survey.

[FR Doc. 2010–10014 Filed 4–28–10; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAC07000 L10200000 EE0000]

Notice of Intent To Prepare an Environmental Assessment for Domestic Sheep Grazing on the Dog Creek and Green Creek Allotments, Mono County, CA, and Possible Land Use Plan Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In compliance with the National Environmental Policy Act (NEPA) of 1969, as amended, and the Federal Land Policy and Management Act (FLPMA) of 1976, as amended, the Bureau of Land Management (BLM) Bishop Field Office, Bishop, California intends to prepare an Environmental Assessment (EA), which may include an amendment to the Bishop Resource Management Plan (RMP), dated March 25, 1993. By this notice the Bishop Field Office is announcing the beginning of the scoping process to solicit public comments and identify issues.

DATES: This notice initiates the public scoping process for the EA and possible plan amendment. Comments on issues may be submitted in writing until June 1, 2010. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local media and the BLM Web site at: *http://www.blm.gov/ca/st/en/fo/bishop.html.* In order to be considered in the EA, all comments must be received before the close of the scoping period or 15 days after the last public meeting, whichever is later. The BLM will provide additional opportunities for public participation upon publication of the EA.

ADDRESSES: You may submit comments on issues and planning criteria related to the EA and possible plan amendment by any of the following methods:

- *Web site: http://www.blm.gov/ca/st/en/fo/bishop.html.*
- *E-mail: Jeffrey_Starosta@blm.gov.*
- *Fax:* (760) 872–5050.
- *Mail:* BLM Bishop Field Office, 351 Pacu Lane, Suite 100, Bishop, California 93514, Attn: Jeff Starosta, Rangeland Management Specialist.

Documents pertinent to this proposal may be examined at the Bishop Field Office.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, contact Jeff Starosta, Rangeland Management Specialist, telephone (760) 872–5032; mail BLM Bishop Field Office, 351 Pacu Lane, Suite 100, Bishop, California 93514; or e-mail *Jeffrey_Starosta@blm.gov.*

SUPPLEMENTARY INFORMATION: The BLM Bishop Field Office intends to prepare an EA that will evaluate a range of alternatives for grazing domestic sheep on the Dog Creek and Green Creek allotments in Mono County, California. The purpose of this action is to consider whether or not, or under what terms and conditions, to issue 10-year grazing permits for these two allotments. The selection of any alternative that would modify the mandatory terms and conditions of the allotments, or that would make all or portions of the allotments unavailable for grazing by domestic livestock, would not conform to the Bishop RMP, and would therefore require a plan amendment.

The Dog Creek allotment consists of approximately 6,527 acres of public land and 1,148 acres of private land. The Green Creek allotment consists of approximately 3,861 acres of public land, 160 acres of state land, and 364 acres of private land. The Dog Creek allotment includes the majority of the Conway Summit Area of Critical Environmental Concern. No threatened or endangered species are known to occur in the allotments and there is no designated critical habitat for any listed species in either allotment.

Sierra Nevada bighorn sheep (*Ovis canadensis sierrae*), a federally listed endangered species, inhabit the Sierra Nevada Range south and west of the two allotments. In the final Recovery Plan for the Sierra Nevada Bighorn Sheep (SNBS Recovery Plan), the U.S. Fish and Wildlife Service (FWS) recommended that the Dog Creek and Green Creek allotments be closed to domestic sheep grazing due to the risk of disease transmission between domestic sheep and bighorn sheep. These two allotments were specifically identified by the FWS as posing a high risk for disease transmission because of their proximity to occupied Sierra Nevada bighorn sheep habitat.

The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the process for developing the EA. At present, the BLM has identified the following preliminary issues: livestock management; specially designated areas; cultural resources; recreation; invasive, non-native species; social and economic values; wetlands and riparian habitats; and vegetation and wildlife, including threatened, endangered, and sensitive species.

Preliminary planning criteria include:

- Incorporating the Central California Standards for Rangeland Health and Guidelines for Livestock Grazing Management;
- Complying with Appendix C of the BLM Land Use Planning Handbook (H 1601–1) in making resource specific determinations;
- Analyzing allotment closure recommendations provided by the FWS in the SNBS Recovery Plan;
- Developing any required plan amendment in compliance with the FLPMA, all other applicable laws, regulations, executive orders, and BLM supplemental program guidance;
- Considering the extent to which the action alternative and any required plan amendment supports the recovery goals outlined in the SNBS Recovery Plan; and
- Assuring that any required plan amendment is compatible, to the extent possible, with existing plans and policies of adjacent local, state, Tribal, and Federal agencies.

Authorization of any alternative analyzed in the EA may require amendment of the Bishop RMP, dated March 25, 1993. By this notice, the BLM is complying with requirements in 43 CFR 1610.2(c) to notify the public of potential amendments to land use plans, predicated on the findings of the EA. If a land use plan amendment is necessary, the BLM will integrate the land use planning process with the NEPA process for this project. The BLM will use and coordinate the NEPA commenting process to satisfy the public involvement process for Section

106 of the National Historic Preservation Act (16 U.S.C. 470f) as provided for in 36 CFR 800.2(d)(3). The BLM will conduct government-to government consultations with relevant Native American tribes in accordance with BLM policy, and will give tribal concerns, including impacts on Indian trust assets, due consideration. Federal, State, and local agencies, along with other stakeholders that may be interested or affected by the BLM's decision on this project are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate as a cooperating agency.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1501.7; 43 CFR 1610.2, 1610.5–5, and 1610.7–2.

Bernadette Lovato,

Bishop Field Manager.

[FR Doc. 2010–9992 Filed 4–28–10; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–R–2009–N202; BAC–4311–K9–S3]

Eastern Neck National Wildlife Refuge, Kent County, MD

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of final comprehensive conservation plan and finding of no significant impact for environmental assessment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of our final comprehensive conservation plan (CCP) and finding of no significant impact (FONSI) for the environmental assessment (EA) for Eastern Neck National Wildlife Refuge (NWR). In this final CCP, we describe how we will manage this refuge for the next 15 years.

ADDRESSES: You may view or obtain copies of the final CCP and FONSI by any of the following methods. You may request a hard copy or CD–ROM.

Agency Web Site: Download a copy of the document(s) at *http://www.fws.gov/northeast/planning/Eastern%20Neck/ccphome.html.*

Electronic mail: northeastplanning@fws.gov. Include "Eastern Neck Final CCP" in the subject line of the message.

U.S. Postal Service: Suzanne Baird, Project Leader, Chesapeake Marshlands NWR Complex, 2145 Key Wallace Drive, Cambridge, MD 21613.

In-Person Viewing or Pickup: Call 410–228–2692 to make an appointment during regular business hours at refuge complex headquarters in Cambridge, Maryland.

FOR FURTHER INFORMATION CONTACT: Suzanne Baird, Project Leader, Chesapeake Marshlands NWR Complex, 2145 Key Wallace Drive, Cambridge, MD 21613; phone: 410–228–2692 extension 101; electronic mail: *suzanne_baird@fws.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we finalize the CCP process for Eastern Neck NWR. We started this plan's development through a notice in the **Federal Register** on June 11, 2002 (67 FR 40002). Because of changes in budget and staffing priorities, we put the project on hold in 2003. We restarted the process, publishing another notice in the **Federal Register** on January 22, 2007 (72 FR 2709). We released the draft CCP/EA to the public, announcing and requesting comments in a notice of availability in the **Federal Register** on September 9, 2009 (74 FR 46456).

Eastern Neck NWR, a 2,286-acre island, was established in 1962 to protect and conserve migratory birds. The refuge lies at the confluence of the Chester River and Chesapeake Bay, and is regionally important as foraging and resting habitat for a wide variety of migratory birds and wintering waterfowl. Refuge habitats are highly diverse, and include tidal marsh, open water, and woodland. The refuge's managed croplands specifically benefit waterfowl by providing a ready source of high-energy food during winter when their reserves are low, as well as a secure area to forage during hunting season. The moist soil units (MSU) and green tree reservoirs on the refuge are also managed to enhance habitats for waterfowl and other migratory birds. Thousands of Atlantic population Canada geese and black ducks winter here, as do large rafts of ruddy ducks, canvasbacks, and greater and lesser scaup. Of particular note are the wintering tundra swans that use the adjacent shallow waters. A small number of the Federally listed endangered Delmarva fox squirrel (*Sciurus niger cinereus*) occur on the refuge, as do nesting bald eagles and more than 60 migratory bird species of conservation concern.

Although conserving wildlife and habitat is the refuge's first priority, the public can observe and photograph wildlife, fish, hunt, or participate in environmental education and interpretation programs. To facilitate those activities, we maintain self-guiding trails, fishing and observation platforms, and photography blinds. School groups come throughout the year for our educational and interpretive programs. An annual deer hunt and youth turkey hunt are also very popular activities on the refuge. All programs benefit from the active involvement of the Friends of Eastern Neck and refuge volunteers.

We announce our decision and the availability of the FONSI for the final CCP for Eastern Neck NWR in accordance with National Environmental Policy Act (40 CFR 1506.6(b)) requirements. We completed a thorough analysis of impacts on the human environment, which we included in the draft CCP/EA.

The CCP will guide us in managing and administering Eastern Neck NWR for the next 15 years. Alternative B, as we described in the draft CCP/EA, is the foundation for the final CCP.

Background

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and goals and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Administration Act.

CCP Alternatives, Including Selected Alternative

Our draft CCP/EA (74 FR 46456) addressed several key issues, including the protection and restoration of shoreline, tidal marsh, and submerged aquatic vegetation; invasive plant and exotic species control; management for waterfowl and other species of conservation concern; wetland and upland habitat management; archeological and culture resource protection; and enhancement of public use programs.

To address these issues and develop a plan based on the purposes for establishing the refuge, and the vision and goals we identified, we evaluated three alternatives in the draft CCP/EA. The alternatives have some actions in common, such as protecting and monitoring Federally listed and recently delisted species, controlling invasive species and monitoring wildlife diseases, encouraging research that benefits our resource decisions, protecting cultural resources, and distributing refuge revenue-sharing payments to Kent County.

Other actions distinguish the alternatives. Alternative A, or the "No Action Alternative," is defined by our current management activities. It serves as the baseline against which to compare the other two alternatives. Our habitat management and visitor services programs would not change under this alternative. We would continue to use the same tools and techniques, and not expand existing facilities.

Alternative B, the "Service-Preferred Alternative," reflects a management emphasis on protection and restoration of the refuge's shoreline and tidal marshes. Priorities under this alternative are expanding our shoreline and tidal marsh protection and restoration program, managing wetlands and uplands to benefit migratory waterfowl, consolidating and reducing the acreage of managed croplands, and increasing the diversity, health, and distribution of the refuge's deciduous-mixed forest to benefit forest-dependent migratory and resident birds. Our public-use programs would be enhanced, but not expanded. In addition to continuing to offer wildlife observation, wildlife photography, deer hunting, youth turkey hunting, recreational crabbing, and fishing opportunities, we would augment our environmental education program with volunteer-led programs and increased involvement with the local school district. We would also seek funding for two new refuge complex staff positions assigned to Eastern Neck NWR: a biological technician and a park ranger (law enforcement).

Alternative C resembles alternative B in its focus on the protection and restoration of shoreline and tidal marsh; however, it is distinguished by its emphasis on forest management and natural succession and the expansion of public-use opportunities. Under alternative C, we would manage the transition of existing croplands, grasslands, and shrublands to deciduous-mixed forest. Under alternative C, we would enhance and expand our public-use programs to include year-round use of the Ingleside Recreational Area, an extension of the Tundra Swan boardwalk, additional environmental education programs, new interpretive signage, and an all-age turkey hunt. We would also evaluate adding a new trail and car-top boat launch on the southern portion of the refuge.

Comments

We solicited comments on the draft CCP/EA for Eastern Neck NWR from September 9, 2009, through October 30, 2009 (74 FR 46456). We received comments from 42 individuals, organizations, and State and Federal agencies on our draft plan via electronic mail, phone, and letters. We evaluated all received comments. A summary of those comments and our responses to them is included as Appendix H in the final CCP.

Selected Alternative

After considering the comments we received on our draft CCP/EA, and after conducting a field review with Service and Maryland Department of Natural Resources staff, we made six modifications to Alternative B to include in the final CCP. First, we will create three larger MSUs totaling 22 acres, instead of the four smaller ones we originally proposed. Second, we will reduce the acres in cropland management from the existing 557 acres to 403 acres (a 28-percent reduction), instead of reducing it to 372 acres (a 33-percent reduction) as originally proposed in the draft CCP/EA. The 31 acres that will remain in cropland are fields which, upon further examination, receive high wildlife use and will facilitate wildlife observation and photography along public access roads. Third, we will maintain two hedgerows we planned to remove in the draft CCP/EA, since subsequent field evaluation indicates they contribute to habitat diversity, reduce the erosive forces of wind and storm events on adjacent fields, and facilitate wildlife observation and photography along public access roads. Fourth, the plan to retain the two hedgerows and adjacent cropland reduces the need and benefit of moving the headquarters road, which we had proposed in the draft CCP/EA. Because of the reduced need and benefit described above, coupled with public concern about the expense, we have dropped from the final CCP the proposal to move the road. Fifth, we will increase our shoreline and tidal marsh protection programs to include an additional 3,000 linear feet along the northern portion of the refuge where shoreline loss has accelerated in recent years. All new major shoreline protection projects will require additional environmental analysis and public involvement. Sixth, we will modify the aggressive *Phragmites* control efforts described in the draft CCP/EA. There are certain areas where the loss of refuge shoreline is accelerating and the only protection is the presence of *Phragmites,* which helps dissipate the erosive forces of wind and wave action. Until we can establish native vegetation or other natural barriers to those impacts, we will scale back our *Phragmites* control efforts in certain high-risk areas.

We have selected alternative B with the changes identified above for implementation for several reasons. The modified alternative B comprises the mix of actions that, in our professional judgment, works best towards achieving refuge purposes, our vision and goals, and the goals of other State and regional conservation plans. We also believe it most effectively addresses the key issues raised during the planning process. The basis of our decision is detailed in the final CCP Appendix I—Finding of No Significant Impact.

Public Availability of Documents

You can view or obtain documents as indicated under **ADDRESSES**.

Dated: April 26, 2010.

James G. Geiger,

Acting Regional Director, Northeast Region, U.S. Fish and Wildlife Service, Hadley, MA 01035.

[FR Doc. 2010–9946 Filed 4–28–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–R–2009–N236; 80230–1265–0000–S3]

Upper Klamath, Lower Klamath, Tule Lake, Bear Valley, and Clear Lake National Wildlife Refuges, Klamath County, OR, Siskiyou and Modoc Counties, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare a comprehensive conservation plan and environmental impact statement; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), intend to prepare a Comprehensive Conservation Plan (CCP) and Environmental Impact Statement (EIS) for Upper Klamath, Lower Klamath, Tule Lake, Bear Valley, and Clear Lake National Wildlife Refuges (Refuges) located in Klamath County, Oregon, and Siskiyou and Modoc Counties, California. The Refuges are part of the Klamath Basin Complex. We provide this notice in compliance with our CCP policy to advise other Federal and State agencies, Tribes, and the public of our intentions, and to obtain suggestions and information on the scope of issues to consider in the planning process.

DATES: To ensure consideration, we must receive your written comments by June 28, 2010. We will hold public meetings to begin the CCP planning process; *see* Public Meetings under **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Send your comments or requests for more information by any of the following methods.

E-mail: R8KlamathCCP@fws.gov. Include "Klamath Basin CCP" in the subject line of the message.

Fax: Attn: Michelle Barry, (530) 667–8337.

U.S. Mail: U.S. Fish and Wildlife Service, Klamath Basin National Wildlife Refuge Complex, 4009 Hill Road, Tulelake, CA 96134.

In-Person Drop off: You may drop off comments during regular business hours, 8 a.m. to 4:30 p.m., Monday through Friday, at Klamath Basin National Wildlife Refuges, 4009 Hill Road, Tulelake, CA 96134. Additional information about the CCP planning process is available on the Internet at *http://www.fws.gov/klamathbasinrefuges.*

FOR FURTHER INFORMATION CONTACT: Michelle Barry, Refuge Planner at (530) 667–2231.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we initiate our process for developing a CCP for Upper Klamath, Lower Klamath, Tule Lake, Bear Valley, and Clear Lake Refuges located in Klamath County, Oregon, and Siskiyou and Modoc Counties, California. This notice complies with our CCP policy to: (1) Advise other Federal and State agencies, Tribes, and the public of our intention to conduct detailed planning on this refuge and (2) obtain suggestions and information on the scope of issues to consider in the environmental document and during development of the CCP.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Administration Act.

Each unit of the National Wildlife Refuge System is established for specific purposes. We use these purposes as the foundation for developing and prioritizing the management goals and objectives for each refuge within the National Wildlife Refuge System, and to determine how the public can use each refuge. The planning process is a way for us and the public to evaluate management goals and objectives that will ensure the best possible approach to wildlife, plant, and habitat conservation, while providing for wildlife-dependent recreation opportunities that are compatible with each refuge's establishing purposes and the mission of the National Wildlife Refuge System.

Our CCP process provides participation opportunities for Tribal, State, and local governments; agencies; organizations; and the public. At this time we encourage input in the form of issues, concerns, ideas, and suggestions for the future management of Klamath Refuges.

We will conduct the environmental review of this project in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*); NEPA regulations (40 CFR parts 1500–1508); other appropriate Federal laws and regulations; and our policies and procedures for compliance with those laws and regulations.

Klamath Refuges

Upper Klamath National Wildlife Refuge was established by President Calvin Coolidge in 1928 as a "refuge and breeding ground for birds and wild animals" (Executive Order 4851). The Refuge comprises 15,000 acres, mostly freshwater hardstem-cattail marsh and open water, along with 30 acres of forested uplands. These habitats serve as excellent nesting and brood rearing areas for waterfowl and colonial nesting birds, including American white pelican and several heron species. Bald eagle and osprey nest nearby and can sometimes be seen fishing in refuge waters.

The *Lower Klamath National Wildlife Refuge* was established by President Theodore Roosevelt in 1908 as a "preserve and breeding ground for native birds" (Executive Order 924). Located in rural northeastern California and southern Oregon, Lower Klamath NWR was the nation's first waterfowl refuge. The Refuge, with a backdrop of 14,000-foot Mount Shasta to the southwest, is listed in the National Register of Historic Places as both a National Historic Landmark and a National Natural Landmark. The 50,092-acre refuge is a varied mix of intensively managed shallow marshes, open water, grassy uplands, and croplands that provide feeding, resting, nesting, and brood-rearing habitat for waterfowl and other water birds. This refuge is one of the most biologically productive refuges within the Pacific Flyway.

Tule Lake National Wildlife Refuge is located in the fertile and intensively farmed Tule Lake Basin of northeast California. It was established in 1928 by President Calvin Coolidge "as a preserve and breeding ground for wild birds and animals" (Executive Order 4975). This 39,116-acre refuge contains about 14,000 acres of open water and marsh surrounded by 8,000 acres of uplands and 17,000 acres of croplands.

Bear Valley National Wildlife Refuge was established in 1978 under the authority of the Endangered Species Act to protect a major night roost site for wintering bald eagles in Southern Oregon. The refuge consists of 4,200 acres, primarily of old growth ponderosa pine, incense cedar, and white and Douglas fir. Bear Valley National Wildlife Refuge also provides nesting habitat for several bald eagle pairs.

Clear Lake National Wildlife Refuge was established by President William Taft in 1911 as a "preserve and breeding ground for native birds" (Executive Order 1332). Located in northeastern California, the Refuge consists of approximately 20,000 acres of open water surrounded by over 26,000 acres of upland bunchgrass, low sagebrush, and juniper habitat. Small, rocky islands in the lake provide nesting sites for American white pelicans, double-crested cormorants, and other colonial nesting birds.

The Klamath Basin Refuges consist of a variety of habitats, including freshwater marshes, open water, grassy meadows, coniferous forests, sagebrush and juniper grasslands, agricultural lands, and rocky cliffs and slopes. These habitats support diverse and abundant populations of resident and migratory wildlife, with 433 species having been observed on or near the Refuges. In addition, each year the Refuges serve as a migratory stopover for about three-quarters of the Pacific Flyway waterfowl, with peak fall concentrations of over 1 million birds.

Public Meetings

We will give the public an opportunity to provide input on the scope of issues to consider in this planning process at public meetings. We will announce the dates, times, and locations of these meetings in local news media and on our Web site. You may also submit comments anytime during the planning process by mail, e-mail, or fax (*see* **ADDRESSES**). There will be additional opportunities to provide input once we have prepared a draft CCP.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: April 21, 2010.

Ken McDermond,

Acting Regional Director, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2010–9949 Filed 4–28–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORE00000–L58820000.PE0000.LXRSEE990000; HAG10–0135]

Notice of Intent To Solicit Nominations, Western Oregon Resource Advisory Committees

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Call for Nominations.

SUMMARY: The Secretary of the Interior is requesting 64 nominations for representatives to serve on the Coos Bay, Eugene, Medford, Roseburg, and Salem District Resource Advisory Committees (RACs). The Committees will advise the Secretary, through the Bureau of Land Management (BLM), on the selection and prioritization of projects funded under Title II of the Secure Rural Schools and Community Self-Determination Act. Terms will begin on the date of appointment and will expire on September 30, 2013.

DATES: Submit nomination packages to one or more of the addresses listed below, on or before June 1, 2010.

ADDRESSES: Advisory Council nomination forms are available at the District Offices in western Oregon, and completed nominations should be submitted to the office of the specific RAC where the applicant would serve:

Coos Bay District Resource Advisory Committee: Glenn Harkleroad, 1300 Airport Lane, North Bend, Oregon 97459, (541) 756–0100.

Eugene District Resource Advisory Committee: Pat Johnston, 3106 Pierce Parkway, Suite E, Springfield, Oregon 97477, (541) 683–6600.

Medford District Resource Advisory Committee: Tim Reuwsaat, 3040 Biddle Road, Medford, Oregon 97504, (541) 618–2200.

Roseburg District Resource Advisory Committee: Jake Winn, 777 NW. Garden Valley Blvd., Roseburg, Oregon 97470, (541) 440–4930.

Salem District Resource Advisory Committee: Trish Hogervorst, 1717 Fabry Road, SE., Salem, Oregon 97306, (503) 375–5657.

FOR FURTHER INFORMATION CONTACT: Pam Robbins, Oregon/Washington Bureau of Land Management, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, (503) 808–6306; *pam_robbins@blm.gov*.

SUPPLEMENTARY INFORMATION: The Secure Rural Schools and Community Self Determination Act was extended to provide stability for local counties by compensating them, in part, for the decrease in funds formerly derived from the harvest of timber on Federal lands. Pursuant to the Act, the five Committees serve western Oregon BLM districts that contain Oregon and California grant lands and Coos Bay Wagon Road grant lands. Committees consist of 15 local citizens representing a wide array of interests.

The RACs provide a mechanism for local community collaboration with Federal land managers as they select projects to be conducted on Federal lands or that will benefit resources on Federal lands using funds under Title II of the Act.

Committee membership must be balanced in terms of the categories of interest represented. Prospective members are advised that membership on a Resource Advisory Committee calls for a substantial commitment of time and energy.

Any individual or organization may nominate one or more persons to serve on the Committees. Individuals may also nominate themselves or others. Nominees must reside within one of the counties that are (in whole or in part) within the BLM District boundaries of the Committee(s) on which membership is sought. A person may apply for more than one Committee. Nominees will be evaluated based on their education, training, and experience relating to land use issues and knowledge of the geographical area of the Committee. Nominees must also demonstrate a commitment to collaborative resource decision-making. The Obama Administration prohibits individuals who are currently Federally registered lobbyists from serving on all Federal Advisory Committee Act (FACA) and non-FACA boards, committees or councils.

You may make nominations for the following categories of interest:

Category One—5 persons who:

1. Represent organized labor or non-timber forest product harvester groups;

2. Represent developed outdoor recreation, off-highway vehicle users, or commercial recreation activities;

3. Represent energy and mineral development interests; or commercial or recreational fishing interests;

4. Represent the commercial timber industry; or

5. Hold Federal grazing permits, or other land permits, or represent nonindustrial private forest land owners within the area for which the committee is organized.

Category Two—5 persons that represent:

1. Nationally recognized environmental organizations;

2. Regionally or locally recognized environmental organizations;

3. Dispersed recreational activities;

4. Archeological and historical interests; or

5. Nationally or regionally recognized wild horse and burro interest groups, wildlife or hunting organizations, or watershed associations.

Category Three—5 persons that:

1. Hold State elected office (or a designee);

2. Hold county or local elected office;

3. Represent American Indian Tribes within or adjacent to the area for which the committee is organized;

4. Are school officials or teachers; or

5. Represent the affected public at large.

The Resource Advisory Committees will be based on western Oregon BLM District boundaries. Specifically, the BLM Committees are as follows:

Coos Bay District Resource Advisory Committee advises Federal officials on projects associated with Federal lands within the Coos Bay District which includes lands in Coos, Curry, Douglas, and Lane Counties.

Eugene District Resource Advisory Committee advises Federal officials on projects associated with Federal lands within the Eugene District boundary which includes lands in Benton, Douglas, Lane, and Linn Counties.

Medford District Resource Advisory Committee advises Federal officials on projects associated with Federal lands within the Medford District and Klamath Falls Resource Area in the Lakeview District which includes lands in Coos, Curry, Douglas, Jackson, and Josephine Counties and small portions of west Klamath County.

Roseburg District Resource Advisory Committee advises Federal officials on projects associated with Federal lands within the Roseburg District boundary which includes lands in Douglas, Lane, and Jackson Counties.

Salem District Resource Advisory Committee advises Federal officials on projects associated with Federal lands within the Salem District boundary which includes lands in Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill Counties.

Authority: Title VI, Section 205 of Pub. L. 110–343.

Edward W. Shepard,

State Director Oregon/Washington.

[FR Doc. 2010–9990 Filed 4–28–10; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[L58820000 PH0000 LXRSEE990000 HAG10–0235]

Notice of Public Meetings for the Eugene District, Resource Advisory Committee

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Emergency Economic Stabilization Act of 2008, Title VI, Secure Schools and Community Self-Determination Program (H.R. 1424), the Federal Land Policy and Management Act, and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management, Eugene District Resource Advisory Committee will meet as indicated below.

DATES: The meeting will begin at 8:30 a.m. (Pacific Daylight Time) on June 10, 2010, and will end at approximately 4:30 p.m. (Pacific Daylight Time). If unfinished business necessitates, the meeting will resume on June 11, 2010, at 8:30 a.m. (Pacific Daylight Time) and will end when business is completed.

ADDRESSES: The Eugene District Resource Advisory Committee will meet at the Bureau of Land Management, Eugene District Office, Springfield Interagency Center, 3106 Pierce Parkway, Suite E, Springfield, Oregon 97477.

FOR FURTHER INFORMATION CONTACT: Patricia K. Johnston, Bureau of Land Management, P.O. Box 10226, Eugene, Oregon 97440–2226, (541) 683–6181 or *pat_johnston@blm.gov.*

SUPPLEMENTARY INFORMATION: The Eugene District Resource Advisory Committee was appointed originally by the Secretary of the Interior pursuant to the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) and re-authorized by the Emergency Economic Stabilization Act of 2008, Title VI, Secure Schools and Community Self-Determination Program (H.R. 1424).

Topics to be discussed by the Eugene District Resource Advisory Committee at these meetings include reviewing project proposals meeting the requirements under Section 201, H.R. 1424, "Title II—Special Projects on Federal Land," recommending funding for such projects to the Secretary of the Interior, and other matters as may reasonably come before the council.

All meetings are open to the public in their entirety. Public comment is generally scheduled from 11:30 a.m. to 12 p.m., each meeting session. The amount of time scheduled for public presentations and meeting times may be extended when the authorized representative considers it necessary to accommodate all who seek to be heard regarding matters on the agenda.

Virginia Grilley,

District Manager, BLM Eugene District Office.

[FR Doc. 2010–9950 Filed 4–28–10; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of June 7, 2010, Meeting for Acadia National Park Advisory Commission

AGENCY: National Park Service, Department of Interior.

ACTION: Notice of June 7, 2010, Meeting for Acadia National Park Advisory Commission.

SUMMARY: This notice sets the date of June 7, 2010, meeting of the Acadia National Park Advisory Commission.

DATES: The public meeting of the Advisory Commission will be held on Monday, June 7, 2010, at 1 p.m. (EASTERN).

Location: The meeting will be held at Park Headquarters, Bar Harbor, Maine 04609.

Agenda

The June 7, 2010, Commission meeting will consist of the following:

1. Committee reports:

—Land Conservation.
—Park Use.
—Science and Education.
—Historic.

2. Old Business.
3. Superintendent's Report.
4. Chairman's Report.
5. Public Comments.

FOR FURTHER INFORMATION CONTACT: Further information concerning this meeting may be obtained from the Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, telephone (207) 288–3338.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Interested persons may make oral/written

presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: April 12, 2010.

Sheridan Steele,

Superintendent, Acadia National Park.

[FR Doc. 2010–10026 Filed 4–28–10; 8:45 am]

BILLING CODE 4310–2N–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf (OCS) Mid-Atlantic Proposed Oil and Gas Lease Sale 220 and Geological and Geophysical Exploration (G&G) on the Mid- and South Atlantic OCS

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of public scoping meetings and extension of scoping period to prepare an Environmental Impact Statement (EIS) for proposed Mid-Atlantic Oil and Gas Lease Sale 220 and notice of new combined scoping meeting for proposed Lease Sale 220 EIS and the Programmatic Environmental Impact Statement (PEIS) for Future Industry G&G Activity on the Mid- and South Atlantic OCS.

SUMMARY: This Notice serves to announce two actions, including: (1) The reopening of the public scoping period for proposed Lease Sale 220 in the Mid-Atlantic Planning Area for an additional 45 days and providing notice of the public scoping meeting dates and locations for this proposed sale; and (2) announcing an additional and separate scoping meeting on May 12, 2010, in Norfolk, Virginia which will solicit public input on both the proposed Lease Sale 220 and the G&G PEIS on the Mid- and South Atlantic OCS. This Notice does not extend the public scoping period for the G&G PEIS on the Mid- and South Atlantic OCS. The scoping period for that PEIS ends on May 17, 2010 (*see* 75 FR 16830).

Pursuant to the regulations implementing the procedural provisions of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.* [1988]) (NEPA), MMS will reopen the comment period on the EIS for proposed Lease Sale 220 for a period of 45 days from the date of this **Federal Register** notice. Proposed Lease Sale 220 is in the Mid-Atlantic Planning Area and is included in the current 5-Year Program for 2007–2012. Public scoping meetings will be held during this 45-day period to solicit useful information that will assist us in preparing an EIS to evaluate potential environmental effects of proposed Lease Sale 220. The MMS has planned three scoping meetings in May 2010 to provide opportunity for public comment and participation as part of the public process for proposed Lease Sale 220.

The public scoping period for the G&G PEIS on the Mid- and South Atlantic OCS ends on May 17, 2010, and scoping meetings for that PEIS were announced in the **Federal Register** on April 2, 2010 (75 FR 16830). Pursuant to the regulations implementing the procedural provisions of NEPA, MMS will hold an additional and separate public scoping meeting on May 12, 2010, in Norfolk, Virginia, which will solicit public input on both the proposed Lease Sale 220 and the G&G PEIS on the Mid- and South Atlantic OCS. All other public meetings announced in the April 2, 2010 **Federal Register** notice for the G&G PEIS on the Mid- and South Atlantic OCS will proceed as planned. Further, the public should follow instructions in 75 FR 16830 for submitting written comments on the G&G PEIS on the Mid- and South Atlantic OCS in lieu of attending the May 12, 2010 public scoping meeting.

DATES: Comments on the proposed Lease Sale 220 should be submitted no later than 45 days from the publication of this notice to the addresses specified below. The MMS estimates completion of the proposed Lease Sale 220 EIS in late 2011. Comments on the G&G PEIS on the Mid- and South Atlantic OCS should be submitted no later than May 17, 2010, according to instructions provided in 75 FR 16830.

Comments: In lieu of participation in the scoping meetings listed below, all interested parties, including Federal, state, and local government agencies and the general public, may submit written comments on the scope of the proposed Lease Sale 220 EIS, significant issues that should be addressed, alternatives that should be considered, and the types of oil and gas activities of interest in the Lease Sale 220 area. These comments must be submitted no later than 45 days from the publication of this notice to the addresses specified below.

Scoping comments for the proposed Lease Sale 220 may be submitted in one of the following two ways:

1. In written form enclosed in an envelope labeled "Scoping for Proposed Lease Sale 220" and mailed (or hand delivered) to Gary D. Goeke, Chief, Environmental Assessment Section, Leasing and Environment (MS 5410), Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394; or

2. Electronically to the MMS e-mail address: *sale220@mms.gov.*

If you submitted comments during the scoping period between November 13, 2008, and January 13, 2009, they will be combined with submittals received during the scoping period announced today. You need not comment again, unless you have additional information to provide. The submission of written comments on the G&G PEIS on the Mid- and South Atlantic OCS should follow the instructions provided in 75 FR 16830 and should be submitted no later than May 17, 2010.

The MMS does not consider anonymous comments; please include your name and address as part of your submittal. Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their address from the public record, which we will honor to the extent allowable by law. There may also be circumstances in which we would withhold a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state your preference prominently at the beginning of your comment. We will make all submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: For information on the public scoping meetings, the submission of comments, or MMS's policies associated with this notice, please contact Mr. Gary D. Goeke, Chief, Environmental Assessment Section, Leasing and Environment (MS 5410), Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, LA 70123–2394, telephone (504) 736–3233.

SUPPLEMENTARY INFORMATION: With respect to proposed Lease Sale 220,

MMS issued a Notice of Intent to prepare an EIS published in the **Federal Register** on November 13, 2008 (Vol. 73, No. 220, page 67201), and included a 45-day scoping period. No scoping meetings were announced at that time. The MMS decided to extend the comment period and made announcements in a press release and other media. On January 7, 2009, MMS published a notice in the **Federal Register** (Vol. 74, No. 4, page 727) extending the scoping comment period to 60 days. That comment period expired on January 13, 2009. Over 27,000 comments were received during this 60-day period. This **Federal Register** notice is not an announcement to hold the proposed lease sale, but it is a continuation of information gathering and the environmental review required by NEPA. The comments we receive during scoping help us form the content of the EIS and are summarized for Departmental decisionmakers prior to a decision on whether or not to hold a lease sale.

The purpose of the public scoping process is to determine relevant issues that should be considered in the environmental analysis of oil and gas exploration, development, and production activities in the vicinity of the proposed lease area including alternatives, and guide the process for developing the EIS. For the proposed Lease Sale 220 EIS, the MMS has currently identified the following preliminary issues: air quality, biological resources, recreation, cultural resources, special management areas, land use, socioeconomic, and visual resources. The MMS will use and coordinate the NEPA commenting process to satisfy the public involvement process for Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) as provided for in 36 CFR 800.2(d)(3). Throughout the scoping process, Federal, state, tribal, and local governments and other interested parties have the opportunity to aid MMS in determining the significant issues, reasonable alternatives, and potential mitigating measures to be analyzed in the EIS, as well as the possible need for additional information. Possible alternatives for analysis within the proposed Lease Sale 220 EIS may represent a range of levels of activities, including: (1) Taking the proposed action (Sale 220); (2) taking no action (canceling the Sale); (3) implementing appropriate restrictions on oil and gas activities based on environmental resources that are present; or (4) defining temporal or spatial work windows to accommodate existing use of OCS space important to other critical national missions. Additional alternatives developed through scoping and NEPA evaluation will be considered.

Statements on the proposed Lease Sale 220 EIS, both oral and written, will be received at the venues listed below. All persons wishing to speak will have the opportunity to do so. Time limits may be set on speakers to allow time for all speakers to participate. The following public scoping meetings are planned for proposed Lease Sale 220:

- May 12, 2010—Hilton Norfolk Airport, 1500 N. Military Highway, Norfolk, Virginia 23502; one meeting, from 1 p.m. to 5 p.m. EST (This meeting will also accept comments on the G&G PEIS for the Mid- and South Atlantic OCS. This is the only one of these three meetings that will accept comments on both the proposed Lease Sale 220 EIS and the G&G PEIS for the Mid- and South Atlantic OCS.);
- May 25, 2010—Princess Royale Oceanfront Hotel & Conference Center, 9100 Coastal Highway, Ocean City, Maryland 21842–2745; two meetings, the first from 1 p.m. to 4 p.m. EST and the second from 7 p.m. to 10 p.m. EST;
- May 27, 2010—Elizabeth City State University Fine Arts Complex, 1704 Weeksville Road, Elizabeth City, North Carolina 27909; two meetings, the first from 1 p.m. to 4 p.m. EST and the second from 7 p.m. to 10 p.m. EST.

In regards to the G&G PEIS for the Mid- and South Atlantic OCS, MMS issued a Notice of Intent to prepare an EIS published in the **Federal Register** on January 21, 2009 (74 FR 3636) and included a 45-day scoping period. No scoping meetings were announced at that time. On April 2, 2010, the MMS reopened the scoping period for an additional 45 days (ending May 17, 2010) and announced a series of public scoping meetings for late April 2010 (75 FR 16830). The comments received during both scoping periods will help MMS to prepare a PEIS evaluating the potential environmental effects of multiple G&G activities on the Mid- and South Atlantic OCS associated with renewable energy projects, oil and gas exploration, and marine minerals extraction. The purpose of the scoping is to identify significant resources and issues to be analyzed in the PEIS, and possible alternatives to the proposed action. Possible alternatives for analysis may represent a range of levels of activities from unrestricted to no seismic, mitigation (e.g., exclusion zones based on received levels of sounds; and limitations on certain combinations of activities in specific temporal/spatial circumstances).

MMS is now announcing through this Notice an additional and separate scoping meeting on the PEIS on May 12, 2010, in Norfolk, Virginia, which will also solicit public input on both the PEIS and proposed Lease Sale 220. Details of this meeting include:

- May 12, 2010—Hilton Norfolk Airport, 1500 N. Military Highway, Norfolk, Virginia 23502; one meeting, from 1 p.m. to 5 p.m. EST.

More information on proposed Lease Sale 220 can be found at: *http://www.mms.gov/offshore/220.htm.* More information on the G&G PEIS on the Mid- and South Atlantic OCS can be found at: *http://www.gomr.mms.gov/homepg/offshore/atlocs/gandg.html.*

Dated: April 16, 2010.

S. Elizabeth Birnbaum,

Director, Minerals Management Service.

[FR Doc. 2010–10017 Filed 4–28–10; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM920000 L13100000 FI0000; TXNM 118757]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease TXNM 118757, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Reinstatement of Terminated Oil and Gas Lease.

SUMMARY: Under the Class II provisions of Title IV, Public Law 97–451, the Bureau Of Land Management (BLM) received a petition for reinstatement of oil and gas lease TXNM 118757 from the lessee, Forest Oil Corporation, for lands in Hill County, New Mexico. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Becky C. Olivas, Bureau of Land Management, New Mexico State Office, P.O. Box 27115, Santa Fe, New Mexico 87502 or at (505) 954–2145.

SUPPLEMENTARY INFORMATION: No valid lease has been issued that affects the lands. The lessee agrees to new lease terms for rentals and royalties of $10 per acre or fraction thereof, per year, and 16⅔ percent, respectively. The lessee paid the required $500 administrative fee for the reinstatement of the lease and $166 cost for publishing this Notice in the **Federal Register.** The lessee met all the requirements for reinstatement of the lease as set out in Section 31(d) and

(e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). We are proposing to reinstate lease TXNM 118757, effective the date of termination, September 1, 2009, under the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Becky C. Olivas,

Land Law Examiner, Fluids Adjudication Team.

[FR Doc. 2010–10010 Filed 4–28–10; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLIDT03000–L14300000.EU0000; IDI–35577]

Notice of Realty Action; Direct Sale of Public Land in Jerome County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: To resolve an unintentional trespass, a parcel of public land totaling 7.45 acres in Jerome County, Idaho, is being considered for direct (non-competitive) sale to Todd and Bridget Buschhorn under the provisions of the Federal Land Policy and Management Act of 1976 (FLPMA), at no less than the appraised fair market value.

DATES: In order to ensure consideration in the environmental analysis of the proposed sale, comments must be received by June 14, 2010.

ADDRESSES: Address all comments concerning this Notice to Field Manager, Bureau of Land Management (BLM), Shoshone Field Office, 400 West F Street, Shoshone, Idaho 83352.

FOR FURTHER INFORMATION CONTACT: Lisa Claxton, Natural Resource Specialist, at the above address or phone (208) 732–7272.

SUPPLEMENTARY INFORMATION: The following described public land in Jerome County, Idaho, is being considered for sale under the authority of Section 203 of FLPMA (43 U.S.C. 1713):

Boise Meridian

T. 10 S., R. 19 E.,
Sec. 25, lot 10.

The area described contains 7.45 acres in Jerome County, Idaho.

The 1985 BLM Monument Resource Management Plan, as amended by the 2003 Amendments to BLM Shoshone Field Office Land Use Plans for Land Tenure Adjustment and Areas of Critical Environmental Concern, identifies this parcel of public land as suitable for disposal. Conveyance of the identified public land will be subject to valid existing rights and encumbrances of record, including but not limited to rights-of-way for roads and public utilities. Conveyance of any mineral interests pursuant to Section 209 of FLPMA will be analyzed during processing of the proposed sale. On April 29, 2010, the above-described land will be segregated from appropriation under the public land laws, including the mining laws, except the sale provisions of FLPMA. Until completion of the sale, the BLM is no longer accepting land use applications affecting the identified public land, except applications for the amendment of previously-filed right-of-way applications or existing authorizations to increase the term of the grants in accordance with 43 CFR 2807.15 and 2886.15. The segregative effect will terminate upon issuance of a patent, publication in the **Federal Register** of a termination of the segregation, or *April 30, 2012,* unless extended by the BLM State Director in accordance with 43 CFR 2711.1–2(d) prior to the termination date.

Public Comments

For a period until June 14, 2010, interested parties and the general public may submit in writing any comments concerning the land being considered for sale, including notification of any encumbrances or other claims relating to the identified land, to Field Manager, BLM Shoshone Field Office, at the above address. In order to ensure consideration in the environmental analysis of the proposed sale, comments must be in writing and postmarked or delivered by June 14, 2010. Comments transmitted via e-mail will not be accepted. Comments, including names and street addresses of respondents, will be available for public review at the BLM Shoshone Field Office during regular business hours, except Federal holidays. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Authority: 43 CFR 2711.1–2.

Ruth Miller,

Shoshone Field Manager.

[FR Doc. 2010–10008 Filed 4–28–10; 8:45 am]

BILLING CODE 4310–GG–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–714]

In the Matter of Certain Electronic Devices With Multi-Touch Enabled Touchpads and Touchscreens; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on March 29, 2010, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Elan Microelectronics Corporation of Taiwan. A letter supplementing the complaint was filed on April 16, 2010. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic devices with multi-touch enabled touchpads and touchscreens by reason of infringement of certain claims of U.S. Patent No. 5,825,352. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and a cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for

this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Aarti Shah, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2657.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2010).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on April 23, 2010, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain electronic devices with multi-touch enabled touchpads or touchscreens that infringe one or more of claims 1, 2, 4, 7, 10, 12, 14, 16, 18, 19, 21, 24, 26, and 30 of U.S. Patent No. 5,825,352, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Elan Microelectronics Corporation, No. 12, Innovation 1st Road, Science Based Industrial Park, Hsinchu Taiwan 308, Taiwan.

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served:

Apple Inc., 1 Infinite Loop, Cupertino, California 95014.

(c) The Commission investigative attorney, party to this investigation, is Aarti Shah, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: April 23, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–9912 Filed 4–28–10; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–10–013]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: States International Trade Commission.

TIME AND DATE: May 3, 2010 at 11 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: 1. Agenda for future meetings: none.

2. Minutes.

3. Ratification List.

4. Inv. No. 731–TA–1159 (Final) (Certain Oil Country Tubular Goods from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before May 17, 2010.)

5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: April 26, 2010.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2010–10070 Filed 4–27–10; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree With Big River Zinc Corporation Providing for Civil Penalties and Injunctive Relief Under the Clean Air Act

Notice is hereby given that on April 15, 2009, a proposed Consent Decree with Big River Zinc Corporation ("BRZ") providing for civil penalties and injunctive Relief under the Clean Air Act in *United States* v. *Big River Zinc Corp.,* Civil Action No. 3:10–cv–00276–DRH–CJP was lodged with the United States District Court for the Southern District of Illinois.

In this action the United States sought injunctive relief and assessment of civil penalties for violation of the New Source Performance Standards ("NSPS") of the Clean Air Act, 42 U.S.C. 7411, and the NSPS regulations codified at 40 CFR part 60, at a plant in Sauget, Illinois, which is owned and operated by BRZ. The Decree, which was lodged simultaneously with the filing of the complaint, resolves claims arising out of BRZ's replacement of two roasting units. BRZ has not operated its roasters since early 2006. Under the proposed Decree, BRZ may not restart either of its roasters for the purpose of resuming zinc roasting operations until it installs a scrubber system that is designed to meet applicable control limits with which BRZ must comply after resuming zinc roasting operations. In the event that BRZ does not resume zinc roasting operations within five years of entry of the Consent Decree, it must permanently shut down its zinc roasting operations and surrender all related pollution credits. The proposed Decree will also require BRZ to pay a civil penalty of $250,000.

The Department of Justice will receive comments relating to the proposed Consent Decrees for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, should refer to *United States* v. *Big River Zinc Corp.,* D.J. Ref. 90–5–2–1–08230.

The Decree may be examined at the Office of the United States Attorney for the Southern District of Illinois, Nine Executive Drive, Fairview Heights, Illinois, 62208–1344, and at U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. During the public comment period, the Decree may also be examined on the following Department of Justice Web site, to *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $13 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2010–9891 Filed 4–28–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,438]

Chrysler LLC, St. Louis South Assembly Division, Including On-Site Leased Workers From HAAS TCM, Inc., Robinson Solutions, Corrigan Company, and Murphy Company, Fenton, MO; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on December 14, 2007, applicable to workers of Chrysler LLC, St. Louis South Assembly Division, Fenton, Missouri. The notice was published in the **Federal Register** on December 31, 2007 (72 FR 74343). The certification was amended on November 18, 2008 to include on-site leased workers. The notice was published in the **Federal Register** on December 1, 2008 (73 FR 72848).

At the request of the petitioner, the Department reviewed the certification for workers of the subject firm. The workers assemble Chrysler Town and Country mini-van, and the Dodge Grand Caravan mini-van.

New information shows that workers leased from Corrigan Company and Murphy Company were employed on-site by the Fenton, Missouri location of Chrysler LLC, St. Louis South Assembly Division. The Department has determined that these workers were sufficiently under the control of and in support of Chrysler LLC, St. Louis South Assembly Division to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Corrigan Company and Murphy Company working on-site at the Fenton, Missouri location of the subject firm.

The intent of the Department's certification is to include all workers employed at Chrysler LLC, St. Louis South Assembly Division, Fenton, Missouri who were adversely affected by increased imports of Chrysler Town and Country mini-van and the Dodge Grand Caravan mini-van.

The amended notice applicable to TA–W–62,438 is hereby issued as follows:

All workers of Chrysler LLC, St. Louis South Assembly Division, including on-site leased workers from HAAS TCM, Inc., Robinson Solutions, Corrigan Company and Murphy Company, Fenton, Missouri, who became totally or partially separated from employment on or after November 7, 2006, through December 14, 2009, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 20th day of April 2010.

Del Min Amy Chen,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–9925 Filed 4–28–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–63,052]

Chrysler LLC, St. Louis North Assembly Plant Including On-Site Leased Workers From HAAS TCM, Inc., Logistics Services, Inc., Robinson Solutions, Logistics Management Services, Inc., Corrigan Company and Murphy Company, Fenton, MO; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on April 14, 2008, applicable to workers of Chrysler LLC, St. Louis North Assembly Plant, Fenton, Missouri. The notice was published in the **Federal Register** on May 2, 2008 (73 FR 24317).

The certification was subsequently amended on November 18, 2008, December 9, 2008, October 30, 2009 to include several on-site leased workers. The notices were published in the **Federal Register** on December 1, 2008 (73 FR 72848 December 18, 2008 (73 FR 77069) and November 12, 2009 (74 FR 58316). The certification was amended again on March 31, 2010. The notice will be published soon in the **Federal Register**.

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. The workers assemble Dodge Ram full-sized pickup trucks.

New information shows that workers leased from Corrigan Company and Murphy Company were employed on-site at the Fenton, Missouri location of Chrysler LLC, St. Louis North Assembly Plant. The Department has determined that these workers were sufficiently under the control of Chrysler LLC, St. Louis North Assembly Plant to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Corrigan Company and Murphy Company working on-site at the Fenton, Missouri location of the subject firm.

The intent of the Department's certification is to include all workers employed at Chrysler LLC, St. Louis North Assembly Plant, Fenton, Missouri

who were adversely affected by increased imports of Dodge Ram full-sized pickup trucks.

The amended notice applicable to TA–W–63,052 is hereby issued as follows:

All workers of Chrysler LLC, St. Louis North Assembly Plant, including on-site leased workers from HAAS TCM, Inc., Logistics Services, Inc., Robinson Solutions, Logistics Management Services, Inc., Corrigan Company and Murphy Company, Fenton, Missouri, who became totally or partially separated from employment on or after March 18, 2007, through April 14, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 20th day of April, 2010.

Del Min Amy Chen,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–9927 Filed 4–28–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,058]

Meridian Automotive Systems, Currently Known as Ventra, Ionia, MI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on October 31, 2008, applicable to workers of Meridian Automotive Systems, Ionia, Michigan. The notice was published in the **Federal Register** on November 13, 2008 (73 FR 67209).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of light truck bumper assemblies, grills and service parts for the automotive industry.

The company reports that in July 2009, Ventra purchased Meridian Automotive Systems and is now known as Ventra.

Accordingly, this certification is being amended to include workers at Meridian Automotive Systems, Ionia, Michigan whose wages are reported under the Unemployment Insurance (UI) tax account name for Ventra.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected as an upstream supplier to a trade certified primary firm.

The amended notice applicable to TA–W–64,058 is hereby issued as follows:

All workers of Meridian Automotive Systems, currently known as Ventra, Ionia, Michigan, who became totally or partially separated from employment on or after September 8, 2007, through October 31, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 19th day of April 2010.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–9928 Filed 4–28–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,715, et al.]

Cadence Innovation, LLC, Groesbeck Plant, Including On-Site Leased Workers from Michigan Staffing, LLC, Modern Professional Services, LLC, TAC Transportation, Time Services, Inc., and Human Capital Staffing Clinton Township, MI, et al.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, (19 U.S.C. 2273), and section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on February 6, 2009, applicable to workers of Cadence Innovation, LLC, Incorporated, including on-site leased workers from Michigan Staffing, LLC, Modern Professional Services, LLC, and TAC Transportation at the following locations: Cadence Innovation, LLC, Groesbeck Plant, Clinton Township, Michigan (TA–W–64,715); Cadence Innovation, LLC, Metrology Location, Chesterfield Township, Michigan (TA–W–TA–W–64,715A); Cadence Innovation, Chesterfield Plant, Chesterfield Township, Michigan (TA–W–64,715B); Cadence Innovation, LLC, Information Systems Technology Location, Chesterfield Township, Michigan (TA–W–64,715C); Cadence Innovation, LLC, Hillsdale Plant, Hillsdale, Michigan (TA–W–64,715D); Cadence Innovation, LLC, Hartford City Plant, Hartford City, Indiana (TA–W–64,715E); Cadence Innovation, LLC, 17400 Malyn Street Location, Fraser, Michigan (TA–W–64,715F); Cadence Innovation, LLC, 17350 Malyn Street Location, Fraser, Michigan (TA–W–64,715G); Cadence Innovation, LLC, 17300 Malyn Street, Fraser, Michigan (TA–W–64,715H); Cadence Innovation, LLC, Processing Center, Fraser, Michigan (TA–W–64,715I); and Cadence Innovation, LLC, Commerce Location, Fraser, Michigan (TA–W–64,715J). The notice was published in the **Federal Register** on March 3, 2009 (74 FR 9282–9283). The notice was amended on August 3, 2009 to include on-site leased workers from Time Services, Inc. The notice was published in the **Federal Register** on August 26, 2009 (74 FR 43158–43159).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of vehicle interior systems such as instrument panels, door panels, load floors, quarter panels and consoles.

The intent of the Department's certification is to include all secondarily affected workers employed at the above mentioned locations of Cadence Innovation, LLC.

New information shows that workers leased from Human Capital Staffing were employed on-site at the above mentioned locations of Cadence Innovation, LLC. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include leased workers from Human Capital Staffing working on-site at the above mentioned locations of Cadence Innovation, LLC.

The amended notice applicable to TA–W–64,715 is hereby issued as follows:

All workers of Cadence Innovation, LLC, Groesbeck Plant, Clinton Township, Michigan, including on-site leased workers from Michigan Staffing, LLC, Modern Professional Services, LLC, TAC Transportation, Time Services, Inc., and Human Capital Staffing (TA–W–64,715); Cadence Innovation, LLC, Metrology Location, Chesterfield Township, Michigan,

including on-site leased workers from Michigan Staffing, LLC, Modern Professional Services, LLC, TAC Transportation Time Services, Inc., and Human Capital Staffing (TA–W–64,715A); Cadence Innovation, LLC, Chesterfield Plant, Chesterfield Township, Michigan, including on-site leased workers from Michigan Staffing, LLC, Modern Professional Services, LLC, TAC Transportation, Time Services, Inc., Human Capital Staffing (TA–W–64,715B); Cadence Innovation, LLC, Information Systems Technology Location, Chesterfield Township, Michigan, including on-site leased workers from Michigan Staffing, LLC, Modern Professional Services, LLC, TAC Transportation, Time Services, Inc., and Human Capital Staffing (TA–W–64,715C); Cadence Innovation, LLC, Hillsdale Plant, Hillsdale, Michigan, including on-site leased workers from Michigan Staffing, LLC, Modern Professional Services, LLC, TAC Transportation, Time Services, Inc., and Human Capital Staffing (TA–W–64,715D); Cadence Innovation, LLC, Hartford City Plant, Hartford City, Indiana, including on-site leased workers from Michigan Staffing, LLC, Modern Professional Services, LLC, TAC Transportation, Time Services, Inc., and Human Capital Staffing (TA–W–64,715E); Cadence Innovation, LLC, 17400 Malyn Street Location, Fraser, Michigan, including on-site leased workers from Michigan Staffing, LLC, Modern Professional Services, LLC, TAC Transportation, Time Services, Inc., and Human Capital Staffing (TA–W–64,715F); Cadence Innovation, LLC, 17350 Malyn Street Location, Fraser, Michigan, including on-site leased workers from Michigan Staffing, LLC, Modern Professional Services, LLC, TAC Transportation, Time Services, Inc., and Human Capital Staffing (TA–W–64,715G); Cadence Innovation, LLC, 17300 Malyn Street, Fraser, Michigan, including on-site leased workers from Michigan Staffing, LLC, Modern Professional Services, LLC, TAC Transportation, Time Services, Inc., and Human Capital Staffing (TA–W–64,715H); Cadence Innovation, LLC, Processing Center, Fraser, Michigan, including on-site leased workers from Michigan Staffing, LLC, Modern Professional Services, LLC, TAC Transportation, Time Services, Inc., and Human Capital Staffing (TA–W–64,715I); and Cadence Innovation, LLC, Commerce Location, Fraser, Michigan, including on-site leased workers from Michigan Staffing, LLC, Modern Professional Services, LLC, TAC Transportation, Time Services, Inc., and Human Capital Staffing (TA–W–64,715J), who became totally or partially separated from employment on or after December 15, 2007 through February 6, 2011, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 21st day of April 2010.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–9929 Filed 4–28–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–72,888]

Tektronix, Inc., and Maxtek, a Wholly Owned Subsidiary, Including On-Site Leased Workers From Adecco Employment Services, Beaverton, OR; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (“Act”), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to apply for Worker Adjustment Assistance on March 3, 2010, applicable to workers of Tektronix, Inc, Beaverton, Oregon. The workers produce general purpose electronic test equipment. The notice will be published soon in the **Federal Register**.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in activities related to the production of general purpose electronic test equipment.

Information shows that some of the workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account for Maxtek, a wholly owned subsidiary of Tektronix, Inc.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department’s certification is to include all workers of the subject firm who were adversely affected by the shift in production of general purpose electronic test equipment to China.

The amended notice applicable to TA–W–72,888 is hereby issued as follows:

All workers Tektronix, Inc. and Maxtek, a wholly owned subsidiary, including on-site leased workers from Adecco Employment Services, Beaverton, Oregon, who became totally or partially separated from employment on or after November 17, 2008, through March 3, 2012, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 19th day of April, 2010.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–9922 Filed 4–28–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–72,778]

Kenco Logistic Services, LLC, Electrolux Webster City, Including On-Site Leased Workers From Spherion Staffing Services and Manpower, Webster City, IA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (“Act”), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 8, 2010, applicable to workers of Kenco Logistic Services, LLC, Electrolux Webster City, including on-site leased workers of Spherion Staffing Services, Webster City, Iowa. The notice was published in the **Federal Register** on February 16, 2010 (75 FR 7037).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers provided third party logistic services for the Electrolux, Webster City, Iowa.

The company reports that workers leased from Manpower were employed on-site at the Webster City, Iowa location of Kenco Logistic Services, LLC, Electrolux Webster City. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Manpower working on-site at the Webster City, Iowa location of Kenco Logistic Services, LLC, Electrolux Webster City.

The amended notice applicable to TA–W–72,778 is hereby issued as follows:

All workers of Kenco Logistic Services, LLC, Electrolux Webster City, including on-site leased workers from Spherion Staffing Services and Manpower, Webster City, Iowa, who became totally or partially separated from employment on or after November 5th, 2008, through January 8, 2012, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 19th day of April 2010.

Michael W. Jaffe,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–9924 Filed 4–28–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–71,841]

Vital Signs Minnesota, Inc., Including Workers Whose Unemployment Insurance (UI) Wages Are Paid Through Biomedical Dynamics Corporation, Including On-Site Leased Workers From Masterson Personnel and MRCI Worksource, Burnsville, MN; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance on October 1, 2009, applicable to workers of Vital Signs Minnesota, Inc., Burnsville, Minnesota. The notice was published in the **Federal Register** on November 17, 2009 (74 FR 59253).

At the request of the State, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of blood pressure cuffs.

New information shows that workers separated from employment at Vital Signs Minnesota, Inc. had their wages reported under a separate unemployment insurance (UI) tax account under the name Biomedical Dynamics Corporation.

Accordingly, the Department is amending this certification to property reflect this matter.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift in production of automation design and build components.

The amended notice applicable to TA–W–71,841 is hereby issued as follows:

All workers of Vital Signs Minnesota, Inc., including workers whose unemployment insurance (UI) wages are paid through Biomedical Dynamics Corporation, including on-site leased workers of Masterson Personnel and MRCI Workforce, Burnsville, Minnesota, who became totally or partially separated from employment on or after July 29, 2008, through October 1, 2011, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 21st day of April 2010.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–9926 Filed 4–28–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–71,801]

Nautilus, Inc., Currently Known as Med-Fit Systems Incorporated, Commercial Division, Including On-Site Workers From Select Staffing, Independence, VA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 29th, 2009, applicable to workers of Nautilus, Inc., Commercial Division, including on-site leased workers from Select Staffing, Independence, Virginia. The notice was published in the **Federal Register** on February 16th, 2010 (75 FR 7032).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produced cardio and strength fitness equipment.

New information shows that Nautilus, Inc. was sold in September 2009 and is currently known as Med-Fit Systems, Incorporated. Some workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account under the name Med-Fit Systems, Incorporated.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports of cardio and strength fitness equipment.

The amended notice applicable to TA–W–71,801 is hereby issued as follows:

All workers of Nautilus, Inc., currently known as Med-Fit Systems Incorporated, Commercial Division, Independence, Virginia, who became totally or partially separated from who became totally or partially separated from employment on or after July 22, 2008, through December 29, 2011, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 19th day of April 2010.

Michael W. Jaffe,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–9930 Filed 4–28–10; 8:45 am]

BILLING CODE 4510–FN–P

OFFICE OF MANAGEMENT AND BUDGET

Draft 2010 Report to Congress on the Benefits and Costs of Federal Regulations

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice of availability and request for comments.

SUMMARY: The Office of Management and Budget (OMB) requests comments on its Draft 2010 Report to Congress on the Benefits and Costs of Federal Regulations, available at: *http://www.whitehouse.gov/omb/inforeg_regpol_reports_congress/.* The Draft Report is divided into four chapters. Chapter I examines the benefits and costs of major Federal regulations issued in fiscal year 2009 and summarizes the benefits and costs of major regulations issued between October 1999 and September 2009. It also discusses regulatory impacts on State, local, and Tribal governments, small business, wages, and economic growth. Chapter II offers recommendations for regulatory reform. Chapter III provides an update on implementation of the Information Quality Act. Chapter IV summarizes agency compliance with the Unfunded Mandates Reform Act.

In this draft Report, OMB offers the following recommendations:

1. OMB identifies several measures designed to meet analytical challenges, principally involving increased transparency.

2. OMB offers a brief discussion of disclosure as a regulatory tool.

3. OMB recommends consideration of certain low-cost approaches to the problem of childhood obesity.

4. OMB draws on principles of open government to invite public suggestions about improvements in existing regulations, with particular reference to economic growth.

These recommendations build on those of the 2009 Report, in which OMB emphasized the importance of open government and in particular of obtaining access to "dispersed knowledge" about how to improve regulation. To promote such engagement, OMB requests suggestions about regulatory changes that might serve to promote economic growth, with particular reference to increasing employment, innovation, and competitiveness. OMB is especially interested in identifying both new initiatives and current regulations that might be modified, expanded, or repealed in order to promote those goals. Consistent with Executive Order 12866, OMB welcomes suggestions for regulatory reforms that have significant net benefits, that might increase net exports, and that might promote growth, innovation, and competitiveness for small business, perhaps through increasing flexibility. OMB requests that nominations be submitted electronically to OMB within 60 days from the date of notice publication in the **Federal Register** through *http://www.regulations.gov.*

DATES: To ensure consideration of comments as OMB prepares this Draft Report for submission to Congress, comments must be in writing and received by 60 days after publication.

ADDRESSES: Submit comments by one of the following methods:

- *http://www.regulations.gov:* Direct comments to Docket ID OMB–2010–0008.
- *Fax:* (202) 395–7285.
- *Mail:* Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Darcel D. Gayle, NEOB, Room 10202, 725 17th Street, NW., Washington, DC 20503. We are still experiencing delays in the regular mail, including first class and express mail. To ensure that your comments are received, we recommend that comments on this draft report be electronically submitted.

All comments and recommendations submitted in response to this notice will be made available to the public, including by posting them on OMB's Web site. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means OMB will not know your identity or contact information unless you provide it in the body of your comment.

FOR FURTHER INFORMATION CONTACT: Darcel D. Gayle, Office of Information and Regulatory Affairs, Office of Management and Budget, NEOB, Room 10202, 725 17th Street, NW., Washington, DC 20503. Telephone: (202) 395–3741.

SUPPLEMENTARY INFORMATION: Congress directed the Office of Management and Budget (OMB) to prepare an annual Report to Congress on the Costs and Benefits of Federal Regulations. Specifically, Section 624 of the FY 2001 Treasury and General Government Appropriations Act, also known as the "Regulatory Right-to-Know Act," (the Act) requires OMB to submit a report on the costs and benefits of Federal regulations together with recommendation for reform. The Act states that the report should contain estimates of the costs and benefits of regulations in the aggregate, by agency and agency program, and by major rule, as well as an analysis of impacts of Federal regulation on State, local, and Tribal governments, small businesses, wages, and economic growth. The Act also states that the report should be subject to notice and comment and peer review.

Cass R. Sunstein,

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 2010–9888 Filed 4–28–10; 8:45 am]

BILLING CODE P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act; Notice of a Matter To Be Added to the Agenda for Consideration at an Agency Meeting

TIME AND DATE: 11:15 a.m., Thursday, April 29, 2010.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1b. Consideration of Supervisory Activities. Closed pursuant to Exemptions (8) and (9)(A)(ii).

2b. Personnel. Closed pursuant to Exemption (2).

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, Telephone: 703–518–6304.

Mary Rupp,

Board Secretary.

[FR Doc. 2010–10095 Filed 4–27–10; 4:15 pm]

BILLING CODE P

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

Notice of Continuance for General Clearance for Guidelines, Applications, and Reporting Forms

AGENCY: Institute of Museum and Library Services.

ACTION: Notice of requests for information collection, comment request.

SUMMARY: The Institute of Museum and Library Service (IMLS) as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Institute of Museum and Library Services is currently soliciting comments on IMLS program guidelines and reporting requirements.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before June 26, 2010.

The IMLS is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

ADDRESSES: For a copy of the documents contact: Kim A. Miller, Management Analyst, Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC 20036. Ms. Miller can be reached by telephone: 202–653–4762; fax: 202–653–4600; or e-mail: *kmiller@imls.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Institute of Museum and Library Services (IMLS) is an independent Federal grant-making agency and is the primary source of Federal support for the Nation's 123,000 libraries and 17,500 museums. IMLS provides a variety of grant programs to assist the Nation's museums and libraries in improving their operations and enhancing their services to the public. (20 U.S.C. 9101 *et seq.*).

II. Current Actions

To administer these programs of grants, cooperative agreements and contracts, IMLS must develop application guidelines, applications and reporting forms.

Agency: Institute of Museum and Library Services.

Title: IMLS Guidelines, Applications and Reporting Forms.

OMB Number: 3137–0029, 3137–0071.

Agency Number: 3137.

Frequency: Annually, Semi-annually.

Affected Public: State Library Administrative Agencies, museums, libraries, institutions of higher education, library and museum professional associations, and museum and library professionals, Indian Tribes (including any Alaska native village, regional corporation, or village corporation), and organizations that primarily serve and represent Native Hawaiians.

Number of Respondents: 6,357.

Estimated Time per Respondent: .08–90 hours.

Total Burden Hours: 70,357.

Total Annualized capital/startup costs: 0.

Total Annual Costs: $1,850,383

Contact: For a copy of the documents contact: Kim Miller, Management Analyst, Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC 20036. Ms. Miller can be reached by telephone: 202–653–4762; fax: 202–653–4600; or e-mail: *kmiller@imls.gov.*

Dated: April 26, 2010.

Kim A. Miller,

Management Analyst, Office of Policy, Planning, Research, and Communication.

[FR Doc. 2010–9961 Filed 4–28–10; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; Comment Request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 75 FR 4876, and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.* 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: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725 17th Street, NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send e-mail to *splimpto@nsf.gov.* 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 703–292–7556.

NSF 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.

SUPPLEMENTARY INFORMATION:

Title of Collection: International Cover Page Addendum.

OMB Control No.: 3145–0205.

Abstract

The Office of International Science and Engineering within the Office of the NSF Director will use the International Cover Page Addendum. Principal Investigators submitting proposals to this Office will be asked to complete an electronic version of the International Cover Page Addendum. The Addendum requests foreign counterpart investigator/host information and participant demographics not requested elsewhere in NSF proposal documents.

The information gathered with the International Cover Page Addendum serves four purposes. The first is to enable proposal assignment to the program officer responsible for activity with the primary countries involved. No current component of a standard NSF proposal requests this information. (The international cooperative activities box on the standard NSF Cover Page applies only to one specific type of activity, not the wide range of activities supported by OISE.) NSF proposal assignment applications are program element-based and therefore cannot be used to determine assignment by country. The second use of the information is program management. OISE is committed to investing in activities in all regions of the world. With data from this form, the Office can determine submissions by geographic region. Thirdly, funding decisions cannot be made without details for the international partner not included in any other part of the submission process. The fourth section, counts of scientists and students to be supported by the project, are also not available elsewhere in the proposal since OISE budgets do not include participant support costs. These factors are all important for OISE program management.

Estimated Number of Annual Respondents: 600.

Burden on the Public: 150 hours (15 minutes per respondent).

Dated: April 26, 2010.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2010–9957 Filed 4–28–10; 8:45 am]

BILLING CODE 7555–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2010–38 and CP2010–39; Order No. 446]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add two Global Expedited Package Services 2 contracts to the Competitive Product List. This notice addresses procedural steps associated with this filing.

DATES: Comments are due: April 30, 2010.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 or *stephen.sharfman@prc.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

On April 21, 2010, the Postal Service filed a notice announcing that it has entered into two additional Global Expedited Package Services 2 (GEPS 2) contracts.[1] The Postal Service believes the instant contracts are functionally equivalent to previously submitted GEPS 2 contracts, and are supported by Governors' Decision No. 08–7, attached to the Notice and originally filed in Docket No. CP2008–4. *Id.* at 1, Attachment 3. The Notice also explains that Order No. 86, which established GEPS 1 as a product, also authorized functionally equivalent agreements to be included within the product, provided that they meet the requirements of 39 U.S.C. 3633. *Id.* at 1. In Order No. 290, the Commission approved the GEPS 2 product.[2]

The instant contracts. The Postal Service filed the instant contracts pursuant to 39 CFR 3015.5. In addition, the Postal Service contends that each contract is in accordance with Order No. 86. The term of each contract is 1 year from the date the Postal Service notifies the customer that all necessary regulatory approvals have been received. Notice at 2–3.

In support of its Notice, the Postal Service filed four attachments as follows:

- Attachments 1A and 1B—redacted copies of the two contracts and applicable annexes;
- Attachments 2A and 2B—a certified statement required by 39 CFR 3015.5(c)(2) for each of the two contracts;
- Attachment 3—a redacted copy of Governors' Decision No. 08–7 which establishes prices and classifications for GEPS contracts, a description of applicable GEPS contracts, formulas for prices, an analysis and certification of the formulas and certification of the Governors' vote; and
- Attachment 4—an application for non-public treatment of materials to maintain redacted portions of the contracts and supporting documents under seal.

The Notice advances reasons why the instant GEPS 2 contracts fit within the Mail Classification Schedule language for GEPS 2. The Postal Service identifies customer-specific information, general contract terms and other differences that distinguish the instant contracts from the baseline GEPS 2 agreement, all of which are highlighted in the Notice. *Id.* at 3–6. These modifications as described in the Postal Service's Notice apply to each of the instant contracts.

The Postal Service contends that the instant contracts are functionally equivalent to the GEPS 2 contracts filed previously notwithstanding these differences. *Id.* at 6–7.

The Postal Service asserts that several factors demonstrate the contracts' functional equivalence with previous GEPS 2 contracts, including the product being offered, the market in which it is offered, and its cost characteristics. *Id.* at 3. The Postal Service concludes that because the GEPS agreements "incorporate the same cost attributes and methodology, the relevant cost and market characteristics are similar, if not the same..." despite any incidental differences. *Id.* at 6.

The Postal Service contends that its filings demonstrate that each of the new GEPS 2 contracts comply with the requirements of 39 U.S.C. 3633 and is functionally equivalent to previous GEPS 2 contracts. It also requests that the contracts be included within the GEPS 2 product. *Id.* at 7.

II. Notice of Filing

The Commission establishes Docket Nos. CP2010–38 and CP2010–39 for consideration of matters related to the contracts identified in the Postal Service's Notice.

These dockets are addressed on a consolidated basis for purposes of this order. Filings with respect to a particular contract should be filed in that docket.

Interested persons may submit comments on whether the Postal Service's contracts are consistent with the policies of 39 U.S.C. 3632, 3633 or 3642. Comments are due no later than April 30, 2010. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Paul L. Harrington to serve as Public Representative in the captioned proceedings.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. CP2010–38 and CP2010–39 for consideration of matters raised by the Postal Service's Notice.

2. Comments by interested persons in these proceedings are due no later than April 30, 2010.

3. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as the officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2010–9887 Filed 4–28–10; 8:45 am]

BILLING CODE 7710–FW–S

[1] (1) Notice of United States Postal Service Filing of Two Functionally Equivalent Global Expedited Package Services 2 Negotiated Service Agreements and Application for Non-Public Treatment of Materials Filed Under Seal, April 21, 2010 (Notice).

[2] (2) Docket No. CP2009–50, Order Granting Clarification and Adding Global Expedited Package Services 2 to the Competitive Product List, August 28, 2009 (Order No. 290).

RECOVERY ACCOUNTABILITY AND TRANSPARENCY BOARD

Proposed Information Collection

ACTION: Notice of submission to OMB and 30-day public comment period.

SUMMARY: Under provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(a)(1)(D)) and 5 CFR Part 1320, the Recovery Accountability and Transparency Board (Board) invites public comments on a revision of a currently approved collection of information (OMB number 0430–0004).

DATES: Public comments on this Information Collection Request (ICR) will be accepted on or before June 1, 2010.

ADDRESSES: Send all comments to Sharon Mar, Desk Officer for the Recovery Accountability and Transparency Board, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax 202–395–5167; or e-mail to *smar@omb.eop.gov.*

Comments Received on the 60-Day Federal Register Notice

On June 18, 2009, the Office of Management and Budget (OMB) through its emergency review process approved the Board's ICR titled "Section 1512 Data Standards." On August 7, 2009, the Board published a 60-Day Notice to solicit comments on the ICR in the **Federal Register** (74 FR 39605). Due to subsequent changes in the data elements requested pursuant to OMB Guidance (M–09–21, June 22, 2009), on August 27, 2009, the Board submitted to OMB a revised ICR titled "Section 1512 Data Elements—Federal Financial Assistance," requesting approval. On September 10, 2009, OMB, through its emergency review process, approved the ICR. On October 8, 2009, the Board published in the **Federal Register** another 60-Day Notice to solicit comments on the revised ICR (74 FR 51884). The comment period closed on December 7, 2009.

On December 18, 2009, OMB issued new Recovery Act guidance (M–10–08). This guidance, in part, included a new methodology that recipients were to use in calculating the jobs data requested by section 1512 of the American Recovery and Reinvestment Act of 2009 (Recovery Act). Accordingly, the Board revised its ICR, and OMB approved the revised ICR on December 31, 2009. OMB further advised that another 60-Day Notice for the ICR would not be required. Instead, the Board is submitting the ICR to OMB and opening the 30-day public notice and comment period.

The Board received four comments in response to its 60-Day **Federal Register** Notices. One commenter, a hospital, stated it anticipates that the level of detail required to be reported and the frequency (quarterly) of required reporting will be overly burdensome. This commenter suggested that the reporting requirements be limited to not more than twice a year, that sub-recipient participation be minimized, and that no information be requested on vendors. The commenter further suggested that only basic information from prime recipients on their sub-recipients should be reported (DUNS, location, amount of award, amount expensed); that information on the most highly compensated officers of non-profit institutions should be eliminated from reporting; and that information on research supplies paid to vendors is excessively burdensome and should be eliminated. These suggestions are beyond the statutory or regulatory authority of the Board, which oversees the reporting mandated by Congress, as implemented by OMB.

A second comment was received requesting that OMB allow the Department of Housing and Urban Development (HUD) to grant a waiver to Project-Based Section 8 owners from the Section 1512 reporting requirements. The Board understands that OMB, through HUD, has granted this request on the grounds that the Project-Based Rental Assistance Program is tantamount to an individual benefits program.

A third comment was submitted by an association of 180 research universities and their affiliated academic medical centers and research institutions concerning the annual and quarterly burden associated with section 1512 reporting. The association states that it performed an analysis to estimate the burden associated with section 1512 reporting, focusing on those research institutions which may receive hundreds of Recovery Act awards. The association concluded that the burden associated with each Recovery Act award would be approximately 11.5 hours per quarter. The association's quarterly estimation included time devoted to "accumulating data, analyzing data quality, data entry into FederalReporting.gov, *etc.*" Given the implementation of a copy-forward feature on the data submitted into FederalReporting.gov, however, it is likely that little data—aside from jobs reporting and project status updates—will need to be accumulated or entered into FederalReporting.gov on a quarterly basis. The Board did take into account the association's note that, of Recovery Act recipients who receive upwards of 15 awards, some will be major research institutions that receive hundreds of awards. As of the date the 60-Day Notice comment period had closed, of the recipients who received 15 or more Recovery Act awards, the average number of awards was approximately 70 per recipient. The Board therefore revised its estimates to account for these larger institutions.

The association also commented on "ways for the Board to enhance the quality, utility, and clarity of the information being collected," concluding that administrative cost relief for colleges and universities similar to that provided to the States would help those recipients meet the monitoring and reporting requirements of the Recovery Act. The Board believes that the administrative cost issues are more properly addressed to OMB, as the Board lacks authority to effect changes in that regard.

A fourth comment letter was submitted by a university grants office. A number of the university's comments dealt with the frequency and depth of reporting and would therefore be more appropriately addressed to OMB or Congress rather than the Board. The university did raise the matter of time burdens, stating that "[f]or the initial set-up, organization and work flow design, [it] spent in excess of 400 hours for the initial 162 awards" received. (This comes out to approximately 2.5 hours spent per award for the initial entry of each award.) As noted by the association in its comments referenced above, the university stated that it had received more than 100 Recovery awards. As explained above, the Board has accordingly revised its estimates to incorporate the heavier time burden experienced by entities receiving numerous awards.

The university also noted that "[t]here is a considerable amount of one time and static information required to be reported that could be requested once. This information could then be used to automatically populate the actual award spreadsheet." This suggestion is a good one, and, as explained, the Board has implemented such a solution with the copy-forward feature added to FederalReporting.gov.

SUPPLEMENTARY INFORMATION:

Title of Collection: Section 1512 Data Elements—Federal Financial Assistance.

OMB Control No.: 0430–0004.

Description: The American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5, 123 Stat. 115 (2009)) (Recovery Act) established the Board and required that the Board establish and maintain a public-facing Web site to track covered funds. Section 1512 of the Recovery Act requires recipients of Federal financial assistance—namely, grants, cooperative agreements, contracts and loans—to report on the use of funds. These reports are to be submitted to FederalReporting.gov, and certain information from these reports will later be posted on the public-facing Web site Recovery.gov. More specifically, prime recipients, sub-recipients, and vendors who receive Recovery Act funds are required to submit section 1512 data

elements as set forth in the *Recipient Reporting Data Dictionary* (available electronically at *https://www.federalreporting.gov/federalreporting/downloads.do*). On June 22, 2009, OMB issued the following reporting guidance in its "Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009" (M–09–21):

Prime Recipients: The prime recipient is ultimately responsible for the reporting of all data required by section 1512 of the Recovery Act and the OMB Guidance, including the Federal Funding Accountability and Transparency Act (FFATA) data elements for the sub-recipients of the prime recipient required under section 1512(c)(4). In addition, the prime recipient must report three additional data elements associated with any vendors receiving funds from the prime recipient for any payments greater than $25,000. Specifically, the prime recipient must report the identity of the vendor by reporting the DUNS number, the amount of the payment, and a description of what was obtained in exchange for the payment. If the vendor does not have a DUNS number, then the name and zip code of the vendor's headquarters will be used for identification.

Sub-Recipients of the Prime Recipient: The sub-recipients of the prime recipient may be required by the prime recipient to report the FFATA data elements required under section 1512(c)(4) for payments from the prime recipient to the sub-recipient. The reporting sub-recipients must also report one data element associated with any vendors receiving funds from that sub-recipient. Specifically, the sub-recipient must report, for any payments greater than $25,000, the identity of the vendor by reporting the DUNS number, if available, or otherwise the name and zip code of the vendor's headquarters.

Required Data: The specific data elements to be reported by prime recipients and sub-recipients are included in the *Recipient Reporting Data Dictionary.* Below are the basic reporting requirements to be reported on prime recipients, recipient vendors, sub-recipients, and sub-recipient vendors. Where noted, the information is not entered by the recipient but rather is derived from another source:

Prime Recipient

1.. Funding Agency Code
2. Awarding Agency Code
3. Program Source (TAS)
4. Award Number
5. Order Number
6. Recipient DUNS Number
7. Parent DUNS (derived from CCR)
8. Recipient Type (derived from CCR)
9. CFDA Number
10. Government Contracting Office Code
11.. Recipient Congressional District
12. Recipient Account Number
13. Final Report (not FFATA)
14. Award Type
15. Award Date
16. Award Description
17. Project Name or Project/Program Title
18. Quarterly Activities/Project
19. Project Status
20. Activity Code (NAICS) or NTEE–NPC)
21. Number of Jobs
22. Descriptions of Jobs Created/Retained
23. Amount of Award
24. Total Federal Amount ARRA Funds Received/Invoiced
25. Total Federal Amount of ARRA Expenditure
26. Total Federal ARRA Infrastructure Expenditure
27. Infrastructure Purpose and Rationale
28. Infrastructure Contact Information
29. Recipient Primary Place of Performance
30. Recipient Officer Names and Compensation (if applicable)
31. Total Number of Sub-Awards to Individuals
32. Total Amount of Sub-Awards to Individuals
33. Total Number of Payments to Vendors Less Than $25,000/Award
34. Total Amount of Payments to Vendors Less Than $25,000/Award
35. Total Number of Sub-Awards Less Than $25,000/Award
36. Total Amount of Sub-Awards Less Than $25,000/Award

Sub-Recipient

1. Sub-Recipient DUNS
2. Sub-Award Number
3. Sub-Recipient Name and Address (derived from CCR)
4. Sub-Recipient Congressional District
5. Amount of Subward
6. Total Subaward Funds Disbursed
7. Sub-Award Date
8. Sub-Recipient Place of Performance
9. Sub-Recipient Officer Names and Compensation (if applicable)

Vendor

1. Award Number—Prime Recipient Vendor
2. Subaward Number—Sub-Recipient Vendor
3. Vendor DUNS Number
4. Vendor HQ Zip Code + 4
5. Vendor Name
6. Product and Service Description
7. Payment Amount

Affected Public: Recipients, as defined in section 1512(b)(1) of the Recovery Act, of Recovery funds (specifically, Federal financial assistance).

Total Estimated Number of Respondents: 80,000.

Frequency of Responses: Quarterly.

Total Estimated Annual Burden Hours: 2,720,000.

Ivan Flores,

Paralegal Specialist, Recovery Accountability and Transparency Board.

[FR Doc. 2010–9942 Filed 4–28–10; 8:45 am]

BILLING CODE 6820–GA–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

President's Council of Advisors on Science and Technology; Meeting

Notice of Meeting: Partially Closed Meeting of the President's Council of Advisors on Science and Technology.

ACTION: Public Notice.

SUMMARY: This notice sets forth the schedule and summary agenda for a partially closed meeting of the President's Council of Advisors on Science and Technology (PCAST), and describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (FACA), 5 U.S.C., App.

DATES: May 21, 2010.

ADDRESSES: The meeting will be held at the Keck Center of the National Academies, 500 5th Street, NW., Room Keck 100, Washington, DC.

Type of Meeting: Open and Closed.

Proposed Schedule and Agenda: The President's Council of Advisors on Science and Technology (PCAST) is scheduled to meet in open session on May 21, 2010 from 8:30 a.m.–5 p.m. with a lunch break from 12:30 p.m. to 1:30 p.m.

Open Portion of Meeting: During this open meeting, PCAST is tentatively scheduled to hear presentations from the director of the Advanced Research Projects Agency-Energy (ARPA–E), the Under Secretary of Commerce for Oceans and Atmosphere and administrator of the National Oceanic and Atmospheric Administration (NOAA), and the director of the U.S. Geological Survey (USGS). The ARPA–E director will focus his remarks on the energy innovation, and the NOAA Administrator and USGS Director on biodiversity issues. PCAST members will also discuss reports they are

developing on the topics of advanced manufacturing; science, technology, engineering, and mathematics (STEM) education, health information, and influenza vaccinology. Additional information and the agenda will be posted at the PCAST Web site at: *http://whitehouse.gov/ostp/pcast.*

Closed Portion of the Meeting: PCAST may hold a closed meeting of approximately 1 hour with the President on May 21, 2010, which must take place in the White House for the President's scheduling convenience and to maintain Secret Service protection. This meeting will be closed to the public because such portion of the meeting is likely to disclose matters that are to be kept secret in the interest of national defense or foreign policy under 5 USC 552b(c)(1). The precise date and time of this potential meeting has not yet been determined.

Public Comments: It is the policy of the PCAST to accept written public comments of any length, and to accommodate oral public comments whenever possible. The PCAST expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

The public comment period for this meeting will take place on May 21, 2010 at a time specified in the meeting agenda posted on the PCAST Web site at *http://whitehouse.gov/ostp/pcast.* This public comment period is designed only for substantive commentary on PCAST's work, not for business marketing purposes.

Oral Comments: To be considered for the public speaker list at the March meeting, interested parties should register to speak at *http://whitehouse.gov/ostp/pcast,* no later than 5 pm Eastern Time on Wednesday, May 12, 2010. Phone or e-mail reservations will not be accepted. To accommodate as many speakers as possible, the time for public comments will be limited to two (2) minutes per person, with a total public comment period of 30 minutes. If more speakers register than there is space available on the agenda, PCAST will randomly select speakers from among those who applied. Those not selected to present oral comments may always file written comments with the committee. Speakers are requested to bring at least 25 copies of their oral comments for distribution to the PCAST members.

Written Comments: Although written comments are accepted until the date of the meeting, written comments should be submitted to PCAST at least two weeks prior to each meeting date, May 6, 2010, so that the comments may be made available to the PCAST members prior to the meeting for their consideration. Information regarding how to submit comments and documents to PCAST is available at *http://whitehouse.gov/ostp/pcast* in the section entitled "Connect with PCAST."

Please note that because PCAST operates under the provisions of FACA, all public comments and/or presentations will be treated as public documents and will be made available for public inspection, including being posted on the PCAST Web site.

FOR FURTHER INFORMATION CONTACT: Information regarding the meeting agenda, time, location, and how to register for the meeting is available on the PCAST Web site at: *http://whitehouse.gov/ostp/pcast.* A live video webcast and an archive of the webcast after the event will be available at *http://whitehouse.gov/ostp/pcast.* The archived video will be available within one week of the meeting. Questions about the meeting should be directed to Dr. Deborah D. Stine, PCAST Executive Director, at *dstine@ostp.eop.gov,* (202) 456–6006. Please note that public seating for this meeting is limited and is available on a first-come, first-served basis.

SUPPLEMENTARY INFORMATION: The President's Council of Advisors on Science and Technology is an advisory group of the nation's leading scientists and engineers who directly advise the President and the Executive Office of the President. *See* the Executive Order at *http://www.whitehouse.gov/ostp/pcast.* PCAST makes policy recommendations in the many areas where understanding of science, technology, and innovation is key to strengthening our economy and forming policy that works for the American people. PCAST is administered by the Office of Science and Technology Policy (OSTP). PCAST is co-chaired by Dr. John P. Holdren, Assistant to the President for Science and Technology, and Director, Office of Science and Technology Policy, Executive Office of the President, The White House; Dr. Harold E. Varmus, President, Memorial Sloan-Kettering Cancer Center; and Dr. Eric S. Lander, President and Director, Broad Institute of MIT and Harvard.

Meeting Accomodations: Individuals requiring special accommodation to access this public meeting should contact Dr. Stine at least ten business days prior to the meeting so that appropriate arrangements can be made.

Ted Wackler,

Deputy Chief of Staff.

[FR Doc. 2010–10074 Filed 4–28–10; 8:45 am]

BILLING CODE 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:

Rule 6a–4, Form 1–N; OMB Control No. 3235–0554; SEC File No. 270–496.

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. The Code of Federal Regulation citation to this collection of information is 17 CFR 240.6a–4 and 17 CFR 249.10 under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (the "Act").

Section 6 of the Act [1] sets out a framework for the registration and regulation of national securities exchanges. Under the Commodity Futures Modernization Act of 2000, a futures market may trade security futures products by registering as a national securities exchange. Rule 6a–4 [2] sets forth these registration procedures and directs futures markets to submit a notice registration on Form 1–N.[3] Form 1–N calls for information regarding how the futures market operates, its rules and procedures, its criteria for membership, its subsidiaries and affiliates, and the security futures products it intends to trade. Rule 6a–4 also requires entities that have submitted an initial Form 1–N to file: (1) Amendments to Form 1–N in the event of material changes to the information provided in the initial Form 1–N; (2) periodic updates of certain information provided in the initial Form 1–N; (3) certain information that is provided to the futures market's members; and (4) a

[1] 15 U.S.C. 78f.

[2] 17 CFR 240.6a–4.

[3] 17 CFR 249.10.

monthly report summarizing the futures market's trading of security futures products. The information required to be filed with the Commission pursuant to Rule 6a–4 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 respondents to the collection of information are futures markets.

The Commission estimates that the total annual burden for all respondents to provide the amendments and periodic updates under Rule 6a–4 would be 45 hours (15 hours/respondent per year × 3 respondents) and $300 of miscellaneous clerical expenses. The Commission estimates that the total annual burden for the filing of the supplemental information and the monthly reports required under Rule 6a–4 would be 37.5 hours (12.5 hours/respondent per year × 3 respondents) (rounded to 38 hours) and $375 of miscellaneous clerical expenses.

Compliance with Rule 6a–4 is mandatory. Information received in response to Rule 6a–4 shall not be kept confidential; the information collected is public information.

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 shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Comments should be directed to: 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 60 days of this notice.

Dated: April 22, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–9879 Filed 4–28–10; 8:45 am]

BILLING CODE 8011–01–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:

Rule 607; SEC File No. 270–561; OMB Control No. 3235–0634.

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.

Regulation E (17 CFR 230.601 to 610a) allows the exemption of securities issued by a small business investment company ("SBIC") which is registered under the Investment Company Act of 1940 ("Investment Company Act") (15 U.S.C. 80a-1 *et seq.*) or a closed-end investment company that has elected to be regulated as a business development company ("BDC") under the Investment Company Act from registration under the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a *et seq.*), so long as the aggregate offering price of all securities of the issuer that may be sold within a 12-month period does not exceed $5,000,000 and certain other conditions are met. Rule 607 under Regulation E (17 CFR 230.607) entitled, "Sales material to be filed," requires sales material used in connection with securities offerings under Regulation E to be filed with the Commission at least five days (excluding weekends and holidays) prior to its use.[1] Commission staff reviews sales material filed under rule 607 for materially misleading statements and omissions. The requirements of rule 607 are designed for investor protection.

Respondents to this collection of information include SBICs and BDCs making an offering of securities under Regulation E. Each respondent's reporting burden under rule 607 relates to the burden associated with filing its sales material electronically. The burden of filing electronically, however, is negligible and there have been no filings made under this rule, so this collection of information does not impose any burden on the industry. However, we are requesting one annual response and an annual burden of one hour for administrative purposes. The estimate of average burden hours is made solely for purposes of the Paperwork Reduction Act and is not derived from a quantitative, comprehensive, or even representative survey or study of the burdens associated with Commission rules and forms.

The requirements of this collection of information are mandatory. Responses 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 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: April 20, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–9878 Filed 4–27–10; 8:45 am]

BILLING CODE 8011–01–P

[1] Sales material includes advertisements, articles or other communications to be published in newspapers, magazines, or other periodicals; radio and television scripts; and letters, circulars or other written communications proposed to be sent given or otherwise communicated to more than ten persons.

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 N–8F; SEC File No. 270–136; OMB Control No. 3235–0157.

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.

Form N–8F (17 CFR 274.218) is the form prescribed for use by registered investment companies in certain circumstances to request orders of the Commission declaring that the registration of that investment company cease to be in effect. The form requests, from investment companies seeking a deregistration order, information about (i) the investment company's identity, (ii) the investment company's distributions, (iii) the investment company's assets and liabilities, (iv) the events leading to the request to deregister, and (v) the conclusion of the investment company's business. The information is needed by the Commission to determine whether an order of deregistration is appropriate.

The Form takes approximately 3 hours on average to complete. It is estimated that approximately 330 investment companies file Form N–8F annually, so that the total annual burden for the form is estimated to be 990 hours. The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act and is not derived from a comprehensive or even a representative survey or study.

The collection of information on Form N–8F is not mandatory. The information provided on Form N–8F is not 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 requested on: (a) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens 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 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, Virginia, 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: April 20, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–9877 Filed 4–28–10; 8:45 am]

BILLING CODE 8011–01–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:
Rule 155; OMB Control No. 3235–0549; SEC File No. 270–492.

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.

Rule 155 (17 CFR 230.155) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) provides safe harbors for a registered offering following an abandoned private offering, or a private offering following an abandoned registered offering, without integrating the registered and private offerings in either case. Rule 155 requires any prospectus filed as a part of a registration statement after a private offering to include disclosure regarding abandonment of the private offering. Similarly, the rule requires an issuer to provide each offeree in a private offering following an abandoned registered offering with: (1) Information concerning withdrawal of the registration statement; (2) the fact that the private offering is unregistered; and (3) the legal implications of the offering's unregistered status. The likely respondents will be companies. Rule 155 takes approximately 4 hours per response to prepare and is filed by 600 respondents. We estimate that 50% of the 4 hours per response (2 hours per response) is prepared by the filer for a total annual reporting burden of 1,200 hours (2 hours per response x 600 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, 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: April 22, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–9876 Filed 4–28–10; 8:45 am]

BILLING CODE 8011–01–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 BD/Rule 15b1–1; SEC File No. 270–19; OMB Control No. 3235–0012.

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 BD (17 CFR. 249.501) under the Securities Exchange Act of 1934 (17 U.S.C. 78a *et seq.*) is the application form used by firms to apply to the Commission for registration as a broker-

dealer. Form BD also is used by firms other than banks and registered broker-dealers to apply to the Commission for registration as a municipal securities dealer or a government securities broker-dealer. In addition, Form BD is used to change information contained in a previous Form BD filing that becomes inaccurate.

The total annual burden imposed by Form BD is approximately 6,800 hours, based on approximately 17,795 responses (341 initial filings + 17,764 amendments). Each application filed on Form BD requires approximately 2.75 hours to complete and each amended Form BD requires approximately 20 minutes to complete. There is no annual cost burden.

The Commission uses the information disclosed by applicants in Form BD: (1) To determine whether the applicant meets the standards for registration set forth in the provisions of the Exchange Act; (2) to develop a central information resource where members of the public may obtain relevant, up-to-date information about broker-dealers, municipal securities dealers and government securities broker-dealers, and where the Commission, other regulators and SROs may obtain information for investigatory purposes in connection with securities litigation; and (3) to develop statistical information about broker-dealers, municipal securities dealers and government securities broker-dealers. Without the information disclosed in Form BD, the Commission could not effectively implement policy objectives of the Exchange Act with respect to its investor protection function.

Written comments are invited on: (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 estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Comments should be directed to Charles Boucher, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: April 20, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–9941 Filed 4–28–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 29257; File No. 812–13702]

Pax World Funds Trust II, et al.; Notice of Application

April 26, 2010.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application to amend a prior order under section 6(c) of the Investment Company Act of 1940 ("Act") to grant exemptions from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under section 12(d)(1)(J) of the Act to grant an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act to grant an exemption from sections 17(a)(1) and (a)(2) of the Act.

SUMMARY OF THE APPLICATION: Applicants request an order to amend a prior order that permits: (a) Certain open-end management investment companies and their series that are based on equity securities indices to issue shares that can be redeemed only in large aggregations; (b) secondary market transactions in shares to occur at negotiated prices; (c) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of large aggregations of shares; (d) under specified limited circumstances, certain series to pay redemption proceeds more than seven days after the tender of shares; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire shares of the series ("Prior Order").[1] Applicants seek to amend the Prior Order to permit the Trust to offer a new series that is based on an equity securities index for which the entity that may be deemed an index provider also may be deemed an affiliated person of an affiliated person of the Trust. *Applicants:* Pax World Funds Trust II ("Trust"), Pax World Management LLC[2] ("Adviser"), and ALPS Distributors, Inc. ("Distributor").

FILING DATES: The application was filed on September 24, 2009, and amended on February 8, 2010, April 9, 2010 and April 22, 2010.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief 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 May 14, 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 may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants: The Trust and the Adviser, 30 Penhallow Street, Suite 400, Portsmouth, NH 03801; Distributor, 1290 Broadway, Suite 1100, Denver, CO 80203.

FOR FURTHER INFORMATION CONTACT: Laura J. Riegel, Senior Counsel, at (202) 551–6873, 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 Massachusetts business trust. The Trust is registered under the Act as an open-end management investment company with multiple series. The Trust seeks to offer a new series, ESG Shares FTSE Environmental Technologies (ET50) Index Fund (the "ET50 Fund"), that is based on an equity securities index, the FTSE ET50 Index (the "ET50 Index"). The Adviser, an investment adviser registered under the Investment

[1] Pax World Funds Trust II, *et al.,* Investment Company Act Release Nos. 28834 (Jul. 22, 2009) (notice) and 28846 (Aug. 13, 2009) (Prior Order).

[2] Pax World Management LLC is the successor to the business of Pax World Management Corp., the investment adviser applicant named in the Prior Order.

Advisers Act of 1940 ("Advisers Act"), will serve as investment adviser to the ET50 Fund. The Adviser may enter into sub-advisory agreements with one or more investment advisers ("Sub-Advisers") to manage the assets of the ET50 Fund. Any Sub-Adviser will be registered under the Advisers Act. The Distributor, a broker-dealer registered under the Securities Exchange Act of 1934, will serve as the principal underwriter of the ET50 Fund.

2. The applicants are currently permitted to offer series of the Trust in reliance on the Prior Order (such series, the "Funds") provided that the Funds are based on equity securities indices for which no entity that compiles, creates, sponsors, or maintains the indices (each such entity, an "Index Provider") is or will be an "affiliated person" (as such term is defined in section 2(a)(3) of the Act), or an affiliated person of an affiliated person, of the Trust or a Fund, the Adviser or any Sub-Adviser to or promoter of a Fund or of the Distributor.

3. The ET50 Index is a subset of the FTSE Environmental Index Series and is designed to represent the performance of the top 50 global environmental technology companies ranked by full market capitalization. FTSE Group ("FTSE") is responsible for the calculation and management of the ET50 Index. Impax Asset Management Ltd. ("Impax") identifies companies as environmental technology companies eligible for inclusion in the ET50 Index, subject to approval by the independent FTSE Environmental Markets Advisory Committee (the "Committee").[3] Applicants state that Impax may be deemed an Index Provider to the ET50 Index if, due to its activities with respect to the ET50 Index, it is deemed to be compiling, creating, sponsoring or maintaining the ET50 Index. In addition, applicants state that Impax may be deemed an affiliated person of an affiliated person of the Trust.[4] Accordingly, applicants seek to amend the Prior Order to permit the operation of the ET50 Fund.

4. Applicants note that the restriction that the Prior Order applies only to index-based series for which there is no affiliated Index Provider is designed to address potential conflicts of interest. Applicants state that the potential conflicts relating to the possible manipulation of the ET50 Index are addressed through the transparency of the Index Rules. Applicants state that FTSE maintains a publicly available Web site on which it publishes the basic concept of the ET50 Index and discloses the Index Rules, in addition to the component securities and weighting of the ET50 Index. Applicants state that FTSE, as the entity that implements the Index Rules, calculates and maintains the ET50 Index, and calculates and disseminates the ET50 Index value, will function as an unaffiliated calculation agent. Applicants state that, although FTSE may change the Index Rules in the future, any change to the Index Rules would not take effect until FTSE has given the public at least 60 days prior written notice of the change, disclosed on FTSE's Web site. FTSE reconstitutes the ET50 Index no more frequently than on a monthly basis.

5. Applicants state that Impax will have no responsibility for the management of the ET50 Fund. Applicants state that the potential conflicts of interest arising from the possibility that Impax may be deemed an affiliated Index Provider will have no effect on the operation of the ET50 Fund because Impax, the Adviser, and any Sub-Adviser each has adopted or will adopt policies and procedures designed to address such conflicts of interest ("Policies and Procedures"). Among other things, the Policies and Procedures will be designed to limit or prohibit communication between the employees of Impax and the employees of the Adviser (and any Sub-Adviser, if applicable). The Policies and Procedures prohibit Impax from disseminating non-public information about the ET50 Index, including potential changes to the Index Rules to, among others, the employees of the Adviser and any Sub-Adviser responsible for management of the ET50 Fund. The Adviser and any Sub-Adviser will adopt Policies and Procedures that prohibit personnel responsible for the management of the ET50 Fund from sharing any non-public information about the management of the ET50 Fund with any personnel of Impax. Neither the Adviser nor any Sub-Adviser will have a preferential ability to influence the index methodology determined by FTSE or the Committee over other institutional investors, nor will the Adviser or any Sub-Adviser seek to influence the index methodology determined by FTSE or the Committee in a way that would disproportionately benefit the Adviser or any Sub-Adviser.

6. The Adviser has and any Sub-Adviser will have, pursuant to rule 206(4)–7 under the Advisers Act, written Policies and Procedures designed to prevent violations of the Advisers Act and the rules under the Adviser Act. The Adviser has adopted and any Sub-Adviser will adopt, a Code of Ethics as required under rule 17j–1 under the Act and rule 204A–1 under the Advisers Act, and Policies and Procedures to monitor and restrict securities trading by certain employees.

7. Applicants state that the ET50 Fund will operate in a manner identical to the operation of the Funds under the Prior Order, except as specifically noted by applicants (and summarized in this notice). The ET50 Fund will comply with all of the terms and conditions of the Prior Order as amended by the present application. Applicants believe that the requested relief continues to meet the necessary exemptive standards.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–9989 Filed 4–28–10; 8:45 am]

BILLING CODE 8011–01–P

[3] The Committee consists of environmental technology and investment professionals appointed by FTSE in consultation with Impax. Among its duties, the Committee is charged with approving any changes to the rules-based methodology for the ET50 Index ("Index Rules").

[4] Impax serves as the investment adviser to a series of another registered investment company that is advised by the Adviser ("Trust II"). The Trust and Trust II are overseen by identical boards of trustees and officers. Applicants state that Impax may be deemed an affiliated person of an affiliated person of the Trust if the Trust and Trust II are deemed to be under common control by virtue of having the Adviser as their common investment adviser and/or by having identical boards of trustees and officers. Other than as stated in this footnote, neither Impax nor FTSE is or will be (i) an affiliated person, as defined in section 2(a)(3) of the Act, or an affiliated person of an affiliated person, of the ET50 Fund or (ii) an investment adviser, promoter or principal underwriter of the ET50 Fund, or an affiliated person of such persons.

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–9120; 34–61982; File No. 265–25–04]

Investor Advisory Committee

AGENCY: Securities and Exchange Commission.

ACTION: Notice of meeting of SEC Investor Advisory Committee.

SUMMARY: The Securities and Exchange Commission Investor Advisory Committee is providing notice that it will hold a public meeting on Monday, May 17, 2010, in the Multipurpose Room, L–006, at the Commission's main offices, 100 F Street, NE., Washington, DC. The meeting will begin at 9 a.m. (EDT) and will be open to the public. The Committee meeting will be webcast on the Commission's Web site at *http://www.sec.gov*. Persons needing

special accommodations to take part because of a disability should notify a contact person listed below. The public is invited to submit written statements to the Committee.

The agenda for the meeting includes: (i) Remarks by Dan Ariely, behavioral economist, on investor reaction to disclosure; (ii) update on recommendations previously adopted by the Committee; (iii) briefing on the Investor as Owner Subcommittee's environmental, social, and governance disclosure workplan; (iv) update on certain issues involved in financial reform legislation; (v) discussion of fiduciary duty, in the context of investment advisers and registered broker-dealers, including a presentation by SEC staff; (vi) discussion with an expert panel on mandatory arbitration; (vii) discussion of money market funds and the issue of net asset value ("NAV"), including a presentation by SEC staff; (viii) recommendation by Investor Education Subcommittee of an investor education campaign; (ix) reports from Subcommittees on other activities; and (x) discussion of next steps and closing comments.

DATES: Written statements should be received on or before May 10, 2010.

ADDRESSES: Written statements may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet submission form (*http://www.sec.gov/rules/other.shtml*); or
- Send an e-mail message to *rule-comments@sec.gov.* Please include File Number 265–25–04 on the subject line.

Paper Comments

- Send paper statements in triplicate to Elizabeth M. Murphy, Federal Advisory Committee Management Officer, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. 265–25–04. This file number should be included on the subject line if e-mail is used. To help us process and review your statements more efficiently, please use only one method. The Commission staff will post all statements on the Advisory Committee's Web site (*http://www.sec.gov/spotlight/investoradvisorycommittee.shtml*). Statements also 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. All statements received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Kayla J. Gillan, Deputy Chief of Staff, Office of the Chairman, at (202) 551–2100, or Owen Donley, Chief Counsel, Office of Investor Education and Advocacy, at (202) 551–6322, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–6561.

SUPPLEMENTARY INFORMATION: In accordance with Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, § 10(a), Kayla J. Gillan, Designated Federal Officer of the Committee, has approved publication of this notice.

Dated: April 26, 2010.

Elizabeth M. Murphy,

Committee Management Officer.

[FR Doc. 2010–9978 Filed 4–28–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61975; File No. S7–17–09]

Order Extending and Modifying Temporary Conditional Exemptions Under the Securities Exchange Act of 1934 in Connection With Request on Behalf of Eurex Clearing AG Related to Central Clearing of Credit Default Swaps, and Request for Comment

April 23, 2010.

I. Introduction

Over the past year, the Securities and Exchange Commission ("Commission") has taken multiple actions to protect investors and ensure the integrity of the nation's securities markets, including actions [1] designed to address concerns related to the market in credit default swaps ("CDS").[2] The over-the-counter ("OTC") market for CDS has been a source of particular concern to us and other financial regulators, and we have recognized that facilitating the establishment of central counterparties ("CCPs") for CDS can play an important role in reducing the counterparty risks inherent in the CDS market, and thus can help mitigate potential systemic impact. We have therefore found that taking action to help foster the prompt development of CCPs, including granting temporary conditional exemptions from certain provisions of the federal securities laws, is in the public interest.[3]

The Commission's authority over the OTC market for CDS is limited. Specifically, Section 3A of the Securities Exchange Act of 1934 ("Exchange Act") limits the Commission's authority over swap

[1] *See generally* Securities Exchange Act Release No. 60372 (Jul. 23, 2009), 74 FR 37748 (Jul. 29, 2009) and Securities Exchange Act Release No. 61973 (Apr. 23, 2010) (temporary exemptions in connection with CDS clearing by ICE Europe Limited); Securities Exchange Act Release No. 60373 (Jul. 23, 2009), 74 FR 37740 (Jul. 29, 2009) (temporary exemptions in connection with CDS clearing by Eurex Clearing AG) (hereinafter, the "July Eurex Order"); Securities Exchange Act Release No. 59578 (Mar. 13, 2009), 74 FR 11781 (Mar. 19, 2009), Securities Exchange Act Release No. 61164 (Dec. 14, 2009), 74 FR 67258 (Dec. 18, 2009) and Securities Exchange Act Release No. 61803 (Mar. 30, 2010), 75 FR 17181 (Apr. 5, 2010) (temporary exemptions in connection with CDS clearing by Chicago Mercantile Exchange Inc.); Securities Exchange Act Release No. 59527 (Mar. 6, 2009), 74 FR 10791 (Mar. 12, 2009), Securities Exchange Act Release No. 61119 (Dec. 4, 2009), 74 FR 65554 (Dec. 10, 2009) and Securities Exchange Act Release No. 61662 (Mar. 5, 2010), 75 FR 11589 (Mar. 11, 2010) (temporary exemptions in connection with CDS clearing by ICE Trust U.S. LLC); Securities Exchange Act Release No. 59164 (Dec. 24, 2008), 74 FR 139 (Jan. 2, 2009) (temporary exemptions in connection with CDS clearing by LIFFE A&M and LCH.Clearnet Ltd.) and other Commission actions discussed in several of these orders.

In addition, we have issued interim final temporary rules that provide exemptions under the Securities Act of 1933 and the Securities Exchange Act of 1934 for CDS to facilitate the operation of one or more central counterparties for the CDS market. *See* Securities Act Release No. 8999 (Jan. 14, 2009), 74 FR 3967 (Jan. 22, 2009) (initial approval); Securities Act Release No. 9063 (Sep. 14, 2009), 74 FR 47719 (Sep. 17, 2009) (extension until Nov. 30, 2010).

Further, the Commission provided temporary exemptions in connection with Sections 5 and 6 of the Securities Exchange Act of 1934 for transactions in CDS; these exemptions expired on March 24, 2010. *See* Securities Exchange Act Release No. 59165 (Dec. 24, 2008), 74 FR 133 (Jan. 2, 2009) (initial exemption); Securities Exchange Act Release No. 60718 (Sep. 25, 2009), 74 FR 50862 (Oct. 1, 2009) (extension until Mar. 24, 2010).

[2] A CDS is a bilateral contract between two parties, known as counterparties. The value of this financial contract is based on underlying obligations of a single entity ("reference entity") or on a particular security or other debt obligation, or an index of several such entities, securities, or obligations. The obligation of a seller to make payments under a CDS contract is triggered by a default or other credit event as to such entity or entities or such security or securities. Investors may use CDS for a variety of reasons, including to offset or insure against risk in their fixed-income portfolios, to take positions in bonds or in segments of the debt market as represented by an index, or to take positions on the volatility in credit spreads during times of economic uncertainty.

Growth in the CDS market has coincided with a significant rise in the types and number of entities participating in the CDS market. CDS were initially created to meet the demand of banking institutions looking to hedge and diversify the credit risk attendant to their lending activities. However, financial institutions such as insurance companies, pension funds, securities firms, and hedge funds have entered the CDS market.

[3] *See generally* actions referenced in note 1, *supra.*

agreements, as defined in Section 206A of the Gramm-Leach-Bliley Act.[4] For those CDS that are swap agreements, the exclusion from the definition of security in Section 3A of the Exchange Act, and related provisions, will continue to apply. The Commission's action today does not affect these CDS, and this Order does not apply to them. For those CDS that are not swap agreements ("non-excluded CDS"), the Commission's action today provides temporary conditional exemptions from certain requirements of the Exchange Act.

The Commission believes that using well-regulated CCPs to clear transactions in CDS provides a number of benefits, by helping to promote efficiency and reduce risk in the CDS market and among its participants, contributing generally to the goal of market stability, and by requiring maintenance of records of CDS transactions that would aid the Commission's efforts to prevent and detect fraud and other abusive market practices.[5]

Earlier this year, the Commission granted temporary conditional exemptions to Eurex Clearing AG ("Eurex") and certain related parties to permit Eurex to clear and settle CDS transactions.[6] Those exemptions are scheduled to expire on April 23, 2010. Eurex has requested that the Commission extend the temporary conditional exemptions and expand them to address activities in connection with: (a) Eurex requiring its clearing members to execute certain transactions associated with Eurex's process for determining daily settlement prices used in marking positions to market, and (b) Eurex clearing CDS transactions of its members' customers (in addition to clearing CDS transactions of members and their affiliates, as permitted by the current exemption).[7]

Based on the facts presented and the representations made on behalf of Eurex,[8] and for the reasons discussed in this Order, and subject to certain conditions, the Commission is extending the existing temporary conditional exemptions. In addition, the Commission is expanding the existing temporary conditional exemptions to accommodate those required trading processes and customer clearing. Specifically, this Order conditionally exempts Eurex and certain clearing members of Eurex, on a temporary basis, from the registration requirements of Sections 5 and 6 of the Exchange Act solely in connection with the calculation of mark-to-market prices for non-excluded CDS cleared by Eurex. This Order also conditionally exempts Eurex clearing members from broker-dealer registration requirements and related requirements in connection with using Eurex to clear CDS transactions of their customers. This Order also makes certain related changes to the temporary exemption of eligible contract participants and others from certain Exchange Act requirements with respect to non-excluded CDS cleared by Eurex. The other exemptions connected with CDS clearing by Eurex—granted to Eurex in connection with clearing agency registration requirements, as well as granted to registered broker-dealers—are largely unchanged. The Commission is extending the exemptive relief provided in connection with CDS clearing by Eurex through November 30, 2010.

II. Discussion

A. Description of Eurex's Activities to Date and Proposed Expansion of Activities

Eurex's request for an extension of its current temporary exemptions and their expansion to accommodate clearing of CDS transactions by its clearing members' customers and to accommodate an auction process for determining CDS settlement prices describes how Eurex has cleared CDS to date and how the proposed arrangements for central clearing of customer CDS transactions would operate.[9] The request also makes representations about the safeguards associated with those arrangements, as described below.[10]

1. Eurex Proposed Use of Settlement Price Auction Process

Eurex proposes to alter its procedures for determining daily settlement prices that will be used in marking positions to market, by calculating a daily mark-to-market price based on end of day prices submitted by participating members. Under these procedures, Eurex will rank the bid and ask prices submitted by members, and then pair any locking or crossing bid/ask prices to reveal the first non-crossed, non-locked bid/offer pair and determine the point in that range at which the most trade volume will occur. If the ranking does not result in any crossed orders or locked interests, the mark-to-market price will be the midpoint of the range.

To ensure the reliability of the process, Eurex will randomly require clearing members whose prices lock or cross to execute transactions at the locked or crossed prices farthest from the mark-to-market price. This trading will be required on a limited basis, with no more than three such trades in any 30-day period and limited to no more

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[4] 15 U.S.C. 78c–1. Section 3A excludes both a non-security-based and a security-based swap agreement from the definition of "security" under Section 3(a)(10) of the Exchange Act, 15 U.S.C. 78c(a)(10). Section 206A of the Gramm-Leach-Bliley Act defines a "swap agreement" as "any agreement, contract, or transaction between eligible contract participants (as defined in section 1a(12) of the Commodity Exchange Act * * *) * * * the material terms of which (other than price and quantity) are subject to individual negotiation." 15 U.S.C. 78c note.

[5] *See generally* actions referenced in note 1, *supra.*

[6] For purposes of this Order, "Cleared CDS" means a credit default swap that is submitted (or offered, purchased, or sold on terms providing for submission) to Eurex, that is offered only to, purchased only by, and sold only to eligible contract participants (as defined in Section 1a(12) of the Commodity Exchange Act as in effect on the date of this Order (other than a person that is an eligible contract participant under paragraph (C) of that section)), and in which: (i) The reference entity, the issuer of the reference security, or the reference security is one of the following: (A) An entity reporting under the Exchange Act, providing Securities Act Rule 144A(d)(4) information, or about which financial information is otherwise publicly available; (B) a foreign private issuer whose securities are listed outside the United States and that has its principal trading market outside the United States; (C) a foreign sovereign debt security; (D) an asset-backed security, as defined in Regulation AB, issued in a registered transaction with publicly available distribution reports; or (E) an asset-backed security issued or guaranteed by the Federal National Mortgage Association ("Fannie Mae"), the Federal Home Loan Mortgage Corporation ("Freddie Mac") or the Government National Mortgage Association ("Ginnie Mae"); or (ii) the reference index is an index in which 80 percent or more of the index's weighting is comprised of the entities or securities described in subparagraph (i). *See* definition in paragraph III.(f)(1) of this Order. As discussed above, the Commission's action today does not affect CDS that are swap agreements under Section 206A of the Gramm-Leach-Bliley Act. *See* text at note 4, *supra.*

[7] *See* Letter from Paul Architzel, Alston & Bird, to Elizabeth Murphy, Secretary, Commission, Apr. 23, 2010 ("April 2010 request").

[8] *See id.* The exemptions we are granting today are based on all of the representations made in the April 2010 request on behalf of Eurex, which incorporate representations made on behalf of Eurex as part of the request that preceded our earlier relief in connection with CDS clearing by Eurex. We recognize, however, that there could be legal uncertainty in the event that one or more of the underlying representations were to become inaccurate. Accordingly, if any of these exemptions were to become unavailable by reason of an underlying representation no longer being materially accurate, the legal status of existing open positions in non-excluded CDS that previously had been cleared pursuant to the exemptions would remain unchanged, but no new positions could be established pursuant to the exemptions until all of the underlying representations were again accurate.

[9] *See* April 2010 request, *supra* note 7. The description in this Order of Eurex's proposed activities also is based on the provisions of Eurex's rules ("clearing conditions").

[10] Eurex's April 2010 request incorporates by reference the representations of its earlier letter, supplementing those representations with respect to customer clearing, segregation and requiring trading in connection with settlement price calculation. *See* April 2010 request, *supra* note 7.

than ten percent of a dealer's quote participation.

2. Proposed Activity Clearing CDS Transactions of Members' Customers

Eurex requests an exemption for customer access to CDS clearing it provides, similar to its existing exemptions for clearing members' proprietary CDS transactions. Eurex requests an exemption to accommodate two types of customers: "Registered Customers" and other customers.

Registered Customers are customers that will enter into a tri-party agreement with Eurex and the clearing member, in which the clearing member agrees to guarantee the Registered Customer's position and the Registered Customer agrees to be bound by Eurex's Clearing Conditions. Registered Customers' positions are carried in Eurex's systems on a fully disclosed basis. Clearing members will retain, with Eurex, separate accounts for each Registered Customer, with positions being separately booked and margined and separately disclosed on Eurex reports (which can be directly provided to the Registered Customers). Other customers, in contrast, do not enter into separate agreements with Eurex, and their positions will be comingled in a clearing member's customer omnibus clearing account with Eurex.

Customer clearing by Eurex will accommodate CDS transactions that Registered Customers enter directly into with the Eurex members that clear those customers' CDS transactions, as well as Registered Customers' CDS transactions with other counterparties. For transactions that a Registered Customer enters into with its clearing member, novation will result in two CDS positions between that clearing member and Eurex (one trade being booked to the clearing member's agent account for the benefit of customers ("Agent account") at Eurex, and one booked to its proprietary account), in addition to the original CDS position between that clearing member and the Registered Customer. For transactions that a Registered Customer enters into with a clearing member counterparty other than the firm that clears transactions for the Registered Customer, novation will result in the original trade being replaced with three trades, one between that clearing member counterparty and Eurex (in that counterparty's proprietary account at Eurex), another between the Registered Customer's clearing member and Eurex (in that member's agent account), and another trade between the Registered Customer and its clearing member.[11] Registered Customers also may enter into CDS transactions with a counterparty that is not a Eurex clearing member, in which case the transaction will be cleared through the Registered Customer's and the counterparty's respective clearing members.

For customers that are not Registered Customers, the clearing mechanics will differ in that the customer position between the clearing member and Eurex will be in an omnibus account (rather than being reflected in Eurex's system as for a Registered Customer). The clearing member's internal recordkeeping system will identify the contracts with particular customers, and Eurex will rely on the clearing member's records if it is necessary to identify the beneficial owners of those positions.

Under Eurex customer clearing, the clearing relationship and Eurex's guarantee extends only between Eurex and the clearing member. Eurex states that clearing of CDS transactions will benefit customers, among other reasons, by protecting customer collateral in case of default by the customer's clearing member, and by offering customers the ability to transfer positions in the event of clearing member default.

The customer relationship would be governed by an agreement between the customer and the clearing member, and clearing members and their customers generally will have in place International Swaps and Derivatives Association ("ISDA") Master Agreements governing their transactions prior to submission for clearing. These agreements would address, among other issues, procedures whereby an executing dealer may "give up" a contract to the customer's clearing member, and the treatment of CDS transactions that are not accepted for clearing by Eurex.[12]

Eurex has no rule requiring an executing broker to be a clearing member. Eurex expects that transactions will be submitted to Eurex through one or more "third party confirmation platform providers" that will facilitate the matching and confirmation of the trade terms by the parties, as well as the electronic submission of the affirmed trade to Eurex for clearing.[13] Eurex also expects that the platform will submit, to the relevant parties, notice of Eurex's acceptance or rejection of the trade. Third party confirmation platform providers may provide additional back-office or similar services to clearing members or clients. Eurex is currently in negotiations to enable it to accept transactions from one or more third party confirmation platform providers.[14]

3. Framework for Collection and Protection of Customer Margin

a. Margin Requirements for Clearing Members and Customers

Eurex's clearing conditions will require clearing members to collect, from their customers, collateral that is no less than the amount required to meet the margin calculated by Eurex. Clearing members may require customers to post additional margin above the Eurex requirements.

Margin is separately calculated for each clearing member with respect to its different proprietary and agent accounts. As noted above, clearing members will have separate accounts at Eurex for each of their Registered Customers. Each clearing member will use omnibus accounts to hold collateral posted by the clearing member's other customers. The margin requirement for Registered Customers is additive with respect to each Registered Customer, and does not net across the positions of multiple Registered Customers. For other customers, in contrast, the margin required by Eurex to collateralize the clearing member's positions is calculated on a net basis among all of those customers' positions.

b. Treatment of Customer Margin

Eurex states that its framework for segregation of customer margin will be available to all customers, and will be required for cleared CDS transactions of all customers of Eurex's U.S. clearing members and for all U.S. customers of other Eurex clearing members. Eurex will offer buy-side customers individual segregation of positions and collateral

[11] This process is designed to ensure that Eurex maintains a matched book of offsetting CDS contracts.

[12] A transaction may not be accepted for clearing by Eurex, for example, if sufficient initial margin is not posted.

[13] Under this approach, for example, when a Registered Customer and executing broker agree to terms of the transaction (including that the transaction should be submitted to Eurex for clearing), the executing broker will submit the trade terms to the third party confirmation platform provider, which will forward those terms to the Registered Customer for affirmation. Once the Registered Customer has affirmed the trade, the platform will forward those terms to the clearing member designated by the Registered Customer for affirmation. Once all three parties have affirmed the transaction, it will be submitted to Eurex for clearing. Eurex will determine whether to accept or reject the submitted trade in accordance with its risk management policies and procedures.

[14] Eurex Clearing Conditions permits any execution venue or trade confirmation platform that meets the technical requirements to participate in its clearance and settlement architecture. Eurex represents that it is committed to work with reasonably qualified execution venues and trade processing platforms to facilitate functionality for submission of trades by non-member dealers if there is interest in such functionality.

for Registered Customers, and will offer segregation of positions and collateral of other customers using customer omnibus accounts.[15]

i. Individual Segregation for Registered Customers

Eurex's procedures for protecting collateral posted by Registered Customers in connection with Cleared CDS will distinguish between collateral that is posted by customers as required by Eurex to margin a customer's position, and additional collateral that clearing members may choose to collect from those customers.

In the case of securities collateral that a Registered Customer posts to satisfy Eurex's margin requirement, a tri-party agreement among Eurex, the clearing member and the customer will provide that the customer will directly transfer the collateral to Eurex, to be maintained in a separate "RC Margin Collateral Account" specific to that Registered Customer.[16] Eurex will give the Registered Customer a pledge for the return of an amount equivalent to the net value of the securities (after the customer's obligations have been satisfied) in the event of the clearing member's insolvency.

Cash collateral posted by a Registered Customer to satisfy the Eurex-required margin obligation will be deposited by the customer into a dedicated trust account of the clearing member at a third-party bank; this cash will immediately be forwarded to Eurex, to be separately booked and recorded in Eurex's accounts as customer funds and held in a depository.[17] This cash would be subject to a pledge back from Eurex to the Registered Customer.[18]

A clearing member may require a Registered Customer to deposit collateral in excess of the amount of collateral required by Eurex in connection with that customer's position. Unless Eurex provides otherwise, this "Excess Customer Collateral" will be deposited with Eurex (to be held in the RC Margin Collateral Account specific to that Registered Customer in the case of collateral in the form of securities, or with a depository in the case of collateral in the form of cash).[19] Alternatively, in response to market demand, Eurex may provide that clearing members and Registered Customers can agree that a clearing member will deposit the customer's Excess Customer Collateral with an independent third-party custodian that provides a written acknowledgement that it will hold the funds separately from other assets explicitly for the benefit of each of the clearing member's individual customers, and that has over $1 billion in regulatory capital.[20]

ii. Segregation of Collateral Posted by Customers That Are Not Registered Customers

Eurex will protect the collateral posted by customers that are not Registered Customers in a way that differs from the procedures used with respect to Registered Customers. In contrast to Registered Customers, each clearing member will only need to post with Eurex sufficient collateral to satisfy the net CDS position associated with that clearing member's non-Registered customers.[21] Also, in contrast to Registered Customers, Eurex will not separately record non-Registered customers' collateral that is posted with Eurex.

A. Initial Framework

Initially, Eurex will provide that clearing members may only post cash as collateral to satisfy the margin requirement of customers that are not Registered Customers. The customers will transfer, to the clearing member, title to collateral posted to satisfy this requirement; the clearing member then will immediately deposit, with Eurex, an amount of cash necessary to address the net margin requirement associated with these customers' positions. Eurex will hold a primary pledge with respect to the deposited cash.[22]

The collateral that a clearing member will be required to collect from these customers will exceed the amount of net margin (reflecting the net exposure associated with those customers' positions) that the clearing member must forward to Eurex. Clearing members also may collect from these customers additional amounts of collateral in excess of the Eurex-required margin. This excess collateral will not be held at Eurex; instead, clearing members must post this collateral as soon as possible to a third-party custodian, consistent with the use of third-party custodians discussed above in the context of Registered Customers.[23] Clearing members must grant back, to these customers (such as through the use of an independent collateral agent) a *pro rata* security interest in the customer collateral on deposit with the third-party custodian.

B. Future Framework

Eurex anticipates that in the near future it will make changes to the segregation framework for non-Registered customers. Under the revised framework, these customers will transfer cash or securities collateral

[15] Eurex states that it expects that its clearing members may also include futures commission merchants ("FCMs") registered with the Commodity Futures Trading Commission ("CFTC"). As discussed below, such FCM clearing members may rely on this Order's exemption from certain broker-dealer related requirements to the extent those clearing members comply with the conditions of the exemption, including conditions related to the segregation of customer collateral. *See* note 38, *infra.*

[16] Securities collateral pledged to Eurex for the purpose of margining CDS positions will be deposited with Clearstream Banking Frankfurt and Sega Intersettle.

[17] Cash collateral in the form of euros will be deposited by Eurex in the Deutsche Bundesbank; cash collateral in the form of Swiss Francs will be deposited by Eurex in the Swiss National Bank; cash collateral in the form of other currencies, such as U.S. dollars or pounds sterling, will be deposited by Eurex in a commercial bank. These amounts will be held for the benefit of customers.

[18] Eurex may invest cash collateral only in certain "approved instruments" described in Part 2.2 of the Eurex Organizational Manual under the Eurex investment guidelines. In particular, Part 2.2.1 addresses "secured money market investments," and provides that, as a general principle, placements would be made on a secured basis to the largest possible extent, using reverse repurchase agreements as the preferred instrument. It further provides that securities accepted as collateral should be issued or guaranteed by central or regional governments, agencies, multilateral development banks, the International Monetary Fund, the European Community or the Bank for International Settlements; if, however, there is not a sufficient volume of such securities, certain covered bonds or bank bonds may be used. Eligible securities need to meet certain credit rating criteria. Part 2.2.2 provides that certain unsecured money market placements are allowed in certain situations where part 2.2.1 is not available. Eurex states that these approved instruments are similarly conservative to those instruments in which customer funds may be invested under CFTC Rule 1.25, with the distinction that Rule 1.25 is focused on investments available in the U.S. domestic market.

[19] Eurex would exercise its primary lien over only so much of the deposited collateral as is required to satisfy Eurex's margin requirement.

[20] The Commission notes that this Order's exemption for Eurex clearing members in connection with certain Exchange Act broker-dealer related requirements includes conditions that impose additional requirements for the holding of customer collateral. Clearing members must comply with those additional requirements to rely on that broker-dealer related exemption.

[21] In other words, the amount the clearing member is required to post to Eurex in connection with these customers is determined by reference to all of the positions of those customers. For Registered Customers, in contrast, clearing members must post with Eurex at least all of the collateral that the clearing member collects pursuant to Eurex requirements; this amount does not account for netting across the positions of different Registered Customers.

[22] The clearing member would grant back to an independent collateral agent for the benefit of these customers an interest in any collateral returned to the third-party custodian (as described below) by Eurex in the event of the clearing member's insolvency or default.

[23] As noted above, this Order's broker-dealer related exemptions include conditions that impose additional requirements as to the use of third-party depositories. *See* note 20, *supra.*

required by the clearing member into one of two trust accounts at a third-party custodian, consistent with the use of third-party custodians discussed above. The Omnibus Customer Margin Account at this custodian will secure the clearing member's net obligation in respect of these customers; the clearing member will grant a first priority pledge in favor of Eurex over this account, and will notify the third-party custodian of that pledge.[24] The Segregated Customer Custody Account at this custodian will hold additional collateral that the clearing member collects from these customers (as required by Eurex, or in addition to the Eurex-required collateral). The clearing member would be required to take steps, such as through the use of granting a security interest to an independent collateral agent, to enable these non-Registered customers to segregate this collateral away from the clearing member's insolvency estate.

C. Risk of Customer Loss in Connection with Default

If a default by a customer other than a Registered Customer results in a shortfall, Eurex may, after first exhausting the clearing member's available assets, use the net margin as necessary to satisfy that shortfall. As a result, under both Eurex's initial framework and its future framework regarding the collateral posted by these non-Registered customers, the customers whose collateral is commingled (at Eurex or at a third-party depository) are subject to the risk of loss resulting from the default of another non-Registered customer of that clearing member, up to the amount of the net margin associated with the positions of that clearing members' non-Registered customers.

c. Treatment of Variation Margin

Eurex states that losses and gains caused by the relative change in the value of contracts are reflected in mark-to-market margin that is calculated daily. Such variation margin would be calculated as a debit against deposited collateral or as a credit to the customer's collateral account. Eurex anticipates, however, that in the future it will enhance this framework by providing for cash flows of these amounts.

Eurex states that its rules require clearing members to segregate all funds accruing from their customer's positions, in addition to funds received from their customers to margin those positions. In other words, the rules require that clearing members segregate all mark-to-market margin that accrues to customers, as well as any funds paid to the clearing member on behalf of the clearing member's customers.[25]

4. Default and Portability Rules

a. Portability of Positions and Collateral

Prior to clearing member default, Registered Customers and other customers would be able to instruct that positions and collateral be moved to another clearing member. This would be subject to: (i) The approval of all involved parties, (ii) a release by the clearing member with respect to any outstanding obligations of the customer to the clearing member, and (iii) a release by Eurex.

In the case of Registered Customers, following clearing member default but prior to the filing of formal insolvency proceedings the security agreements would provide that the collateral would be returned to the Registered Customer, facilitating the transfer of the collateral to a new clearing member. In the case of customer omnibus accounts, Eurex would be able to ascertain the beneficial owners of positions with the clearing member's cooperation, allowing the collateral to be transferred with the agreement of the affected entities.

b. Shortfalls and Liquidation Procedures

If a clearing member were to become insolvent as the result of a Registered Customer, Eurex would have the right to use the collateral in that Registered Customer's account to satisfy the shortfall. In that event, Eurex would not be able to use the collateral posted by other customers to make up the shortfall. If a clearing member became insolvent due to a shortfall associated with a customer other than a Registered Customer, as noted above Eurex could use collateral in the account up to the amount of net omnibus position, causing loss to non-defaulting customers.[26]

In the event of a clearing member's default, the clearing member would be required to close its cleared CDS transactions; otherwise Eurex could close the positions on behalf of the clearing members.[27] If Eurex cannot close those transactions within a reasonable period, it may use a voluntary auction process to liquidate the position in whole or in part, and assign the remaining positions among non-defaulting clearing members *pro rata.*

5. Other Clearing Member Requirements Related to Customer Clearing

Eurex states that before offering CDS clearance and settlement services to U.S. customers of non-U.S. clearing members, it will adopt a requirement that the clearing member be regulated by: (i) A signatory to the International Organization of Securities Commissions ("IOSCO") Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information, (ii) a signatory to a bilateral arrangement with the Commission for enforcement cooperation, or (iii) a financial regulatory authority in Ireland or Sweden.

B. Temporary Conditional Exemption from Exchange Registration Requirements

Eurex represents that, in connection with its clearing and risk management process, it will calculate an end-of-day settlement price for each Cleared CDS in which a Eurex clearing member has a cleared position, based on prices submitted by Eurex clearing members. As part of this mark-to-market process, Eurex will periodically require Eurex clearing members that submit quotes that lock or cross to execute certain CDS trades. Requiring Eurex clearing members to trade CDS periodically in this manner is designed to help ensure that such submitted prices reflect each Eurex clearing member's best assessment of the value of each of its open positions in Cleared CDS on a daily basis, thereby reducing risk by allowing Eurex to impose appropriate margin requirements.

Section 5 of the Exchange Act states that "[i]t shall be unlawful for any broker, dealer, or exchange, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce for the purpose of using any facility of an exchange * * * to effect any transaction in a security, or to report any such transactions, unless such exchange (1) is registered as a national securities exchange under section 6 of [the Exchange Act], or (2) is exempted from such registration * * * by reason of the limited volume of transactions effected on such

[24] Interest or distributions on this account will be paid to the clearing member; the party that benefits from those amounts will be determined by agreement between the clearing member and the customer (as also is the case for the initial framework with regard to interest earned on cash posted with the third-party custodian).

[25] Sections 1.83 through 1.8.6 of Eurex's rules.

[26] Eurex states that the individually segregated collateral of Registered Customers will never be used to cover any shortfall caused by any other customer.

[27] These procedures may be subject to the action of the receiver of the clearing member, such as the Federal Deposit Insurance Corp. in the case of a U.S. bank clearing member.

exchange * * *."[28] Section 6 of the Exchange Act sets forth a procedure whereby an exchange[29] may register as a national securities exchange.[30] To facilitate the establishment of Eurex's end-of-day settlement price process, including the periodically required trading described above, the Commission is exercising its authority under Section 36 of the Exchange Act to temporarily exempt Eurex and Eurex clearing members, through November 30, 2010, from Sections 5 and 6 of the Exchange Act and the rules and regulations thereunder in connection with Eurex's calculation of mark-to-market prices for open positions in Cleared CDS. This temporary exemption is subject to the following conditions:

First, Eurex must report the following information with respect to the calculation of mark-to-market prices for Cleared CDS to the Commission within 30 days of the end of each quarter, and preserve such reports during the life of the enterprise and of any successor enterprise:

- The total volume of transactions, expressed in the currency of the underlying instrument, executed during the quarter, broken down by reference entity, security, or index; and
- The total unit volume and/or notional amount executed during the quarter, broken down by reference entity, security, or index.

Second, Eurex must establish and maintain adequate safeguards and procedures to protect members' confidential trading information. Such safeguards and procedures shall include: (a) limiting access to the confidential trading information of members to those employees of Eurex who are operating the system or responsible for its compliance with this exemption or any other applicable rules; and (b) establishing and maintaining standards controlling employees of Eurex trading for their own accounts. Eurex must establish and maintain adequate oversight procedures to ensure that the safeguards and procedures established pursuant to this condition are followed.

Third, Eurex must comply with the conditions to the temporary exemption from to the temporary exemption from registration as a clearing agency extended by this Order,[31] given that this exemption is granted in the context of our goal of continuing to facilitate Eurex's ability to act as a CCP for non-excluded CDS, and given Eurex's representation that it must require periodic trading of Cleared CDS positions by Eurex clearing members whose submitted end-of-day prices lock or cross, to enhance the reliability of end-of-day settlement prices submitted as part of the daily mark-to-market process.

The Commission is also temporarily exempting each Eurex clearing member, through November 30, 2010, from the prohibition in Section 5 of the Exchange Act to the extent that such Eurex clearing member uses any facility of Eurex to effect any transaction in Cleared CDS, or to report any such transaction, in connection with Eurex's calculation of mark-to-market prices for open positions in Cleared CDS. Absent an exemption, Section 5 would prohibit any Eurex clearing member that is a broker or dealer from effecting transactions in Cleared CDS on Eurex, which will rely on this Order for an exemption from exchange registration. The Commission believes that temporarily exempting Eurex clearing members from the restriction in Section 5 is necessary and appropriate in the public interest and is consistent with the protection of investors because it will facilitate their use of Eurex's CCP for Cleared CDS, which for the reasons set forth in this Order the Commission believes to be beneficial. Without also temporarily exempting Eurex clearing members from this Section 5 requirement, the Commission's temporary exemption of Eurex from Sections 5 and 6 of the Exchange Act would be ineffective, because Eurex clearing members that are brokers or dealers would not be permitted to effect transactions on Eurex in connection with the end-of-day settlement price process.

C. Temporary Conditional Exemption From Broker-Dealer Related Requirements for Certain Clearing Members of Eurex and Others

The July Eurex Order did not address clearing of customer transactions by Eurex, and that order thus did not provide Eurex clearing members that hold customer collateral in connection with cleared CDS transactions with an exemption from broker-dealer requirements under the Exchange Act. Absent an exception or exemption, persons that effect transactions in non-excluded CDS that are securities may be required to register as broker-dealers pursuant to Section 15(a)(1) of the Exchange Act.[32] Moreover, certain other requirements of the Exchange Act could apply to such persons, as broker-dealers, regardless of whether they are registered with the Commission.

It is consistent with our investor protection mandate to require securities intermediaries that receive or hold funds and securities on behalf of others to comply with standards that safeguard the interests of their customers. For example, a registered broker-dealer is required to segregate assets held on behalf of customers from proprietary assets because segregation will assist customers in recovering assets in the event the broker-dealer fails. To the extent that funds and securities are not segregated, they could be used by an intermediary to fund its own business and could be attached to satisfy debts of the intermediary if it were to fail. Moreover, the maintenance of adequate capital and liquidity protects customers, CCPs and other market participants. Adequate books and records (including both transactional and position records) are necessary to facilitate day to day operations as well as to help resolve situations in which an intermediary fails and either a regulatory authority, receiver, trustee or other entity is forced to liquidate the firm. Appropriate records also are necessary to allow examiners to review for improper activities, such as insider trading or other fraud.

At the same time, requiring intermediaries that receive or hold funds and securities on behalf of customers in connection with transactions in non-excluded CDS to register as broker-dealers may deter the use of CCPs in customer CDS transactions, which would cause customers to lose the counterparty risk benefits of central clearing, and would

[28] 15 U.S.C. 78e.

[29] Section 3(a)(1) of the Exchange Act, 15 U.S.C. 78c(a)(1), defines "exchange." Rule 3b–16 under the Exchange Act, 17 CFR 240.3b–16, defines certain terms used in the statutory definition of exchange. *See* Exchange Act Release No. 40760 (December 8, 1998), 63 FR 70844 (December 22, 1998) (adopting Rule 3b–16 in addition to Regulation ATS).

[30] 15 U.S.C. 78f. Section 6 of the Exchange Act also sets forth various requirements to which a national securities exchange is subject.

[31] *See* Part II.E, *infra.*

[32] Section 15(a)(1) generally provides that, absent an exception or exemption, a broker or dealer that uses the mails or any means of interstate commerce to effect transactions in, or to induce or attempt to induce the purchase or sale of, any security must register with the Commission.

Section 3(a)(4) of the Exchange Act generally defines a "broker" as "any person engaged in the business of effecting transactions in securities for the account of others," but excludes certain bank securities activities. 15 U.S.C. 78c(a)(4). Section 3(a)(5) of the Exchange Act generally defines a "dealer" as "any person engaged in the business of buying and selling securities for his own account," but includes exceptions for certain bank activities. 15 U.S.C. 78c(a)(5). Exchange Act Section 3(a)(6) defines a "bank" as a bank or savings association that is directly supervised and examined by state or federal banking authorities (with certain additional requirements for banks and savings associations that are not chartered by a federal authority or a member of the Federal Reserve System). 15 U.S.C. 78c(a)(6).

lessen the systemic risk reduction benefits associated with central clearing.

Those factors argue in favor of flexibility in applying the requirements of the Exchange Act to these intermediaries, conditioned on requiring the intermediaries to take reasonable steps to help increase the likelihood that their customers would be protected in the event the intermediary became insolvent, even if those safeguards are as not as strong as those required of registered broker-dealers. This requires us to balance the goals of promoting the central clearing of customer CDS transactions against the goal of protecting customers, and to be mindful that these conditions cannot provide legal certainty that customer collateral in fact would be protected in the event an Eurex clearing member were to become insolvent.

In granting the temporary exemption, we also are relying on Eurex's representation that before offering the Non-Member Framework, it will adopt a requirement that non-U.S. clearing members subject to the framework are regulated by: (i) A signatory to the International Organization of Securities Commissions ("IOSCO") Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information, (ii) a signatory to a bilateral arrangement with the Commission for enforcement cooperation, or (iii) a financial regulatory authority in Ireland or Sweden.[33]

Accordingly, pursuant to Section 36 of the Exchange Act, the Commission finds that it is necessary or appropriate in the public interest and is consistent with the protection of investors to exercise its authority to grant a conditional exemption through November 30, 2010, with respect to certain Exchange Act requirements related to broker-dealers. This exemption is available to Eurex clearing members other than registered broker-dealers. This exemption also is available to any eligible contract participant, other than a registered broker-dealer, that does not receive or hold funds or securities for the purpose of purchasing, selling, clearing, settling, or holding Cleared CDS positions for other persons.[34] Solely with respect to Cleared CDS, those persons temporarily will be exempt from the broker-dealer registration requirements of Section 15(a)(1), and the other requirements of the Exchange Act (other than paragraphs (4) and (6) of Section 15(b)[35]) and the rules and regulations thereunder that apply to a broker or dealer that is not registered with the Commission.

For all Eurex clearing members—regardless of whether they receive or hold customer collateral in connection with Cleared CDS—this temporary exemption is conditioned on the clearing member being in material compliance with Eurex's rules, as well as on the clearing member being in compliance with applicable laws and regulations relating to capital, liquidity, and segregation of customers' funds and securities (and related books and records provisions) with respect to Cleared CDS.

For Eurex clearing members that receive or hold funds or securities of U.S. persons (or who receive or hold funds or securities of any person in the case of a U.S. clearing member)—other than for an affiliate that controls, is controlled by, or is under common control with the clearing member—in connection with Cleared CDS, this temporary exemption further is conditioned on the customer not being a natural person, and on the clearing member providing certain risk disclosures to the customer.[36]

Also, those clearing members that receive or hold such customer funds or securities must transfer those funds and securities, as promptly as practicable after receipt, to either the appropriate customer account at Eurex[37] or an account held by a third-party custodian, as described below.[38]

Collateral that is held at a third-party custodian, moreover, must either be held: (1) In the name of the customer, subject to an agreement in which the customer, the clearing member and the custodian are parties, acknowledging that the assets held therein are customer assets used to collateralize obligations of the customer to the clearing member, and that the assets held in the account may not otherwise be pledged or rehypothecated by the clearing member or the custodian; or (2) in an omnibus account for which the clearing member maintains daily records as to the amount owing to each customer, and which is subject to an agreement between the clearing member and the custodian specifying: (i) That all account assets are held for the exclusive benefit of the clearing member's customers and are being kept separate from any other accounts that the clearing member maintains with the

[33] Non-U.S. clearing members that do not meet these criteria would not be eligible to rely on this exemption.

The Commission has established informal relationships with securities authorities in Ireland and Sweden and cooperates with them on an *ad hoc* basis. Also, the securities regulators in both Ireland and Sweden have applied to become signatories to the IOSCO Multilateral Memorandum of Understanding for Consultation, Cooperation and the Exchange of Information.

[34] In some circumstances, an eligible contract participant that does not hold customer funds or securities nonetheless may act as a dealer in securities transactions, or as a broker (such as an inter-dealer broker).

Solely for purposes of this requirement, an eligible contract participant would not be viewed as receiving or holding funds or securities for purpose of purchasing, selling, clearing, settling, or holding Cleared CDS positions for other persons, if the other persons involved in the transaction would not be considered "customers" of the eligible contract participant under the analysis used for determining whether certain persons would be considered "customers" of a broker-dealer under Exchange Act Rule 15c3–3(a)(1). For these purposes, and for the purpose of the definition of "Cleared CDS," the terms "purchasing" and "selling" mean the execution, termination (prior to its scheduled maturity date), assignment, exchange, or similar transfer or conveyance of, or extinguishing the rights or obligations under, a Cleared CDS, as the context may require. This is consistent with the meaning of the terms "purchase" or "sale" under the Exchange Act in the context of security-based swap agreements. *See* Exchange Act Section 3A(b)(4).

[35] Exchange Act Sections 15(b)(4) and 15(b)(6) grant the Commission authority to take action against broker-dealers and associated persons in certain situations. Accordingly, while this exemption from broker-dealer requirements generally extends to persons that act as broker-dealers in the market for Cleared CDS (potentially including inter-dealer brokers that do not hold funds or securities for others), such persons may be subject to actions under Sections 15(b)(4) and (b)(6) of the Exchange Act.

In addition, such persons may be subject to actions under Exchange Act Section 15(c)(1), 15 U.S.C. 78o(c)(1), which prohibits brokers and dealers from using manipulative or deceptive devices. As noted above, Section 15(c)(1) explicitly applies to security-based swap agreements. Sections 15(b)(4), 15(b)(6) and 15(c)(1), of course, would not apply to persons subject to this exemption who do not act as broker-dealers or associated persons of broker-dealers.

[36] The clearing member must disclose that it is not regulated by the Commission and that U.S. broker-dealer segregation requirements and protections under the Securities Investor Protection Act will not apply, that the insolvency law of the applicable jurisdiction may affect the customer's ability to recover funds and securities or the speed of any such recovery, and (if applicable) that non-U.S. members may be subject to an insolvency regime that is materially different from that applicable to U.S. persons.

[37] Cash collateral transferred to Eurex may be invested in certain "approved instruments," as discussed above. *See* note 18, *supra.*

[38] Eurex anticipates that registered FCMs may become clearing members of Eurex; Eurex thus may apply to the CFTC for an order, under Section 4d of the Commodity Exchange Act ("CEA"), to allow FCM clearing members to segregate the collateral posted by customers as margin for Cleared CDS transactions and positions in an account established in accordance with Section 4d and underlying rules.

This Order does not preclude Eurex clearing members that are FCMs (and that are not registered broker-dealers) from relying on this exemption from broker-dealer related requirements under the Exchange Act, provided such members comply with the conditions of this exemption, including conditions related to segregation of customer collateral. The Commission intends to monitor developments that may form the basis for alternative segregation conditions for FCM members of Eurex.

custodian; (ii) that the account assets may not be used as security for a loan to the clearing member by the custodian, and shall be subject to no right, charge, security interest, lien, or claim of any kind in favor of the custodian or any person claiming through the custodian; and (iii) that the assets may not otherwise be pledged or rehypothecated by the clearing member or the custodian.[39] Under either approach, the third-party custodian cannot be affiliated with the clearing member.[40] Moreover, if the third-party custodian is a U.S. entity, it must be a bank (as that term is defined in Section 3(a)(6) of the Exchange Act), have total regulatory capital of at least $1 billion,[41] and have been approved to engage in a trust business by its appropriate regulatory agency. A custodian that is not a U.S. entity must have regulatory capital of at least $1 billion,[42] and must provide the clearing member, the customer and Eurex with a legal opinion[43] providing that the account assets are subject to regulatory requirements in the custodian's home jurisdiction designed to protect, and provide for the prompt return of, custodial assets in the event of the custodian's insolvency, and that the assets held in that account reasonably could be expected to be legally separate from the clearing member's assets in the event of the clearing member's insolvency. Also, cash collateral posted with the third-party custodian may be invested in other assets that constitute "approved instruments" pursuant to part 2.2 under the Eurex Organizational Manual.[44] Finally, a clearing member that uses a third-party custodian to hold customer collateral must notify Eurex of that use.

To the extent there is any delay in the clearing member transferring such funds and securities to Eurex or a third-party custodian,[45] the clearing member must effectively segregate the collateral in a way that, pursuant to applicable law, could reasonably be expected to effectively protect the collateral from the clearing member's creditors. The clearing member may not permit such persons to "opt out" of such segregation even if applicable regulations or laws otherwise would permit such "opt out."

To facilitate compliance with the segregation practices that are required as a condition to this temporary exemption, the clearing member also must annually provide Eurex with a self-assessment that it is in compliance with the requirements, along with a report by the clearing member's independent third-party auditor that attests to that assessment. The report must be dated the same date as the clearing member's annual audit report (but may be separate from it), and must be produced in accordance with the standards that the auditor follows in auditing the clearing member's financial statements.[46]

Finally, to support these segregation practices and enhance the ability to detect and deter circumstances in which clearing members fail to segregate customer collateral consistent with the exemption, this temporary exemption is conditioned on the clearing member agreeing to provide the Commission with access to information related to Cleared CDS transactions.[47] In particular, the clearing member would provide the Commission (upon request and subject to agreements reached between the Commission or the U.S. Government and an appropriate foreign securities authority[48]) with information or documents within the clearing member's possession, custody, or control, as well as testimony of clearing member personnel and assistance in taking the evidence of other persons, that relates to Cleared CDS transactions. If, after the clearing member has exercised its best efforts to provide this information (including requesting the appropriate governmental body and, if legally necessary, its customers), the clearing member nonetheless is prohibited from providing the information by applicable foreign law or regulations, this temporary conditional exemption would no longer be available to the clearing member.[49]

We recognize that requiring clearing members that receive or hold customer collateral to satisfy these conditions will not guarantee that a customer would receive the return of its collateral in the event of a clearing member's insolvency, particularly in light of the fact-specific nature of the insolvency process and the multiplicity of insolvency regimes that may apply to Eurex's members clearing for U.S. customers. We believe, however, that these are reasonable steps for increasing the likelihood that customers would be able to access collateral in such an insolvency event. We also recognize that these customers generally may be expected to be sophisticated market participants that should be able to weigh the risks associated with entering into arrangements with intermediaries that are not registered broker-dealers, particularly in light of the disclosure required as a condition to this temporary exemption.

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[39] We do not contemplate that either of these approaches involving the use of a third-party custodian would interfere with the ability of a clearing member and its customer to agree as to how any return or losses earned on those assets would be distributed between the clearing member and its customer.

Also, the restriction in both approaches on the clearing member's and the custodian's ability to rehypothecate these customer funds and securities does not preclude that collateral from being transferred to Eurex as necessary to satisfy variation margin requirements in connection with the customer's CDS position.

[40] For purposes of the Order, an "affiliated person" of a clearing member mean any person who directly or indirectly controls a clearing member or any person who is directly or indirectly controlled by or under common control with a clearing member; ownership of 10 percent or more of an entity's common stock will be deemed *prima facie* control of that entity. *See* definition in paragraph III.(f)(2) of this Order. This standard is analogous to the standard used to identify affiliated persons of broker-dealers under Exchange Act Rule 15c3–3(a)(13), 17 CFR 240.15c3–3(a)(13).

[41] In particular, custodians that are U.S. entities must have total capital, as calculated to meet the applicable requirements imposed by the entity's appropriate regulatory agency of at least $1 billion. The term "appropriate regulatory agency" is defined in Section 3(a)(34) of the Exchange Act, 15 U.S.C. 78c(a)(34)).

[42] Custodians that are non-U.S. entities must have total capital, as calculated to meet the applicable requirements imposed by the foreign financial regulatory authority of at least $1 billion. The term "foreign financial regulatory authority" is defined in Section 3(a)(52) of the Exchange Act, 15 U.S.C. 78c(a)(52)).

[43] This condition requiring that Eurex receive a legal opinion as a repository for regulators, and other conditions of this Order that require clearing members to convey information (*e.g.,* an audit report related to the clearing member's compliance with exemptive conditions) to Eurex, does not impose upon Eurex any independent duty to audit or otherwise review such information. These conditions also do not impose on Eurex any independent fiduciary or other obligation to any customer of a clearing member.

[44] *See* note 18, *supra.*

[45] This provision is intended to address short-term technology or operational issues.

[46] As the self-assessment is intended to serve as the basis for the third-party auditor's report, we expect the self-assessment to be generally contemporaneous with that report.

[47] This requirement for clearing members to make information available to the Commission is consistent with a requirement in Exchange Act Rule 15a–6(a)(3)(i)(B), which exempts certain foreign broker-dealers from registering with the Commission. *See* Exchange Act Rule 15a–6(a)(3)(i)(B).

[48] The term "foreign securities authority" is defined in Section 3(a)(50) of the Exchange Act, 15 U.S.C. 78c(a)(50).

[49] Consistent with the discussion above as to the loss of an exemption due to an underlying representation no longer being accurate, *see* note 8, *supra,* if a clearing member were to lose the benefit of this exemption due to the failure to provide information to the Commission as the result of a prohibition by an applicable foreign law or regulation, the legal status of existing open positions in non-excluded CDS associated with those clearing members and its customers would remain unchanged, but the clearing member could not establish new CDS positions pursuant to the exemption.

D. Modified and Extended Temporary Conditional General Exemption for Eurex and Certain Eligible Contract Participants

The existing order on behalf of Eurex temporarily exempted Eurex, and certain members and eligible contract participants from a number of Exchange Act requirements, subject to certain conditions, recognizing that applying the full panoply of Exchange Act requirements to participants in transactions in non-excluded CDS likely would deter some participants from using CCPs to clear CDS transactions. That temporary conditional exemption, however, did not extend to the antifraud provisions of the Exchange Act, in light of the importance of continuing to apply those antifraud provisions to transactions in non-excluded CDS.[50]

We are modifying the existing temporary conditional exemption to accommodate customer CDS clearing by Eurex. As revised, this temporary conditional exemption applies to Eurex and to any eligible contract participants [51]—including any Eurex clearing member [52]—other than eligible contract participants that are self-regulatory organizations, or eligible contract participants that are registered brokers or dealers.[53]

In light of the temporary conditional exemption that we are granting from certain Exchange Act requirements related to broker-dealers, we also are modifying this temporary conditional exemption by excluding from its scope the broker-dealer registration requirements of Section 15(a)(1),[54] and the other requirements of the Exchange Act, including paragraphs (4) and (6) of Section 15(b), and the rules and regulations thereunder that apply to a broker or dealer that is not registered with the Commission.[55]

Eurex clearing members relying on this temporary conditional exemption must be in material compliance with Eurex rules. Moreover, to help promote compliance with the temporary conditional exemption that we are granting from certain Exchange Act requirements specifically related to broker-dealers, any Eurex clearing member relying on this exemption that participates in the clearing of Cleared CDS transactions on behalf of other persons must annually provide a certification to Eurex that attests to whether the clearing member is relying on the temporary exemption from broker-dealer related requirements described below.[56]

As before, this temporary conditional exemption, solely with respect to Cleared CDS, generally addresses the provisions of the Exchange Act and the rules and regulations thereunder that do not apply to security-based swap agreements. Thus, persons relying on the exemption would still be subject to those Exchange Act requirements that explicitly are applicable in connection with security-based swap agreements.[57] Also, as before, this temporary conditional exemption does not extend to: the exchange registration requirements of Exchange Act Sections 5 and 6; [58] the clearing agency registration requirements of Exchange Act Section 17A; the requirements of Exchange Act Sections 12, 13, 14, 15(d), and 16; [59] or certain provisions related to government securities.[60] This revised temporary exemption will be in effect through November 30, 2010.

E. Extension of Other Temporary Exemptions Associated With CDS Clearing by Eurex

The order we previously granted to facilitate CDS clearing by Eurex conditionally exempts Eurex, until April 23, 2010, from the clearing agency registration requirements of Section 17A of the Exchange Act in connection with Cleared CDS. Subject to the conditions in that exemption, Eurex is permitted to act as a CCP for Cleared CDS without having to register with the Commission as a clearing agency. In granting that exemption, the Commission recognized the need to ensure the prompt establishment of Eurex as a CCP for CDS

[50] OTC transactions subject to individual negotiation that qualify as security-based swap agreements are subject to those provisions. While Section 3A of the Exchange Act excludes "swap agreements" from the definition of "security," certain antifraud and insider trading provisions under the Exchange Act explicitly apply to security-based swap agreements. *See* (a) paragraphs (2) through (5) of Section 9(a), 15 U.S.C. 78i(a), prohibiting the manipulation of security prices; (b) Section 10(b), 15 U.S.C. 78j(b), and underlying rules prohibiting fraud, manipulation or insider trading (but not prophylactic reporting or recordkeeping requirements); (c) Section 15(c)(1), 15 U.S.C. 78o(c)(1), which prohibits brokers and dealers from using manipulative or deceptive devices; (d) Sections 16(a) and (b), 15 U.S.C. 78p(a) and (b), which address disclosure by directors, officers and principal stockholders, and short-swing trading by those persons, and rules with respect to reporting requirements under Section 16(a); (e) Section 20(d), 15 U.S.C. 78t(d), providing for antifraud liability in connection with certain derivative transactions; and (f) Section 21A(a)(1), 15 U.S.C. 78u–1(a)(1), related to the Commission's authority to impose civil penalties for insider trading violations.

"Security-based swap agreement" is defined in Section 206B of the Gramm-Leach-Bliley Act as a swap agreement in which a material term is based on the price, yield, value, or volatility of any security or any group or index of securities, or any interest therein.

[51] This exemption in general applies to eligible contract participants, as defined in Section 1a(12) of the Commodity Exchange Act as in effect on the date of this Order, other than persons that are eligible contract participants under paragraph (C) of that section.

[52] The current exemption specifically applies to any "Eurex U.S. Clearing Member" and "Eurex Non-U.S. Clearing Members." These terms were defined to exclude U.S. members that submitted customer CDS trades for clearing, and to exclude non-U.S. members that submitted customer CDS trades for clearing for the account of any other person except a U.S. person. In light of our expansion of the Eurex exemptions to accommodate customer clearing, we no longer are limiting the exemption in that way, and are not using those definitions.

[53] The current exemption also excludes persons that hold funds and securities for others. This restriction no longer is necessary in light of the exemption from broker-dealer related requirements.

Also, a separate temporary exemption addresses the Cleared CDS activities of registered broker-dealers. *See* Part II.E, *infra.* Solely for purposes of this Order, a "registered broker-dealer," or a "broker or dealer registered under Section 15(b) of the Exchange Act," does not refer to someone that would otherwise be required to register as a broker or dealer solely as a result of activities in Cleared CDS in compliance with this Order.

[54] 15 U.S.C. 78o(a)(1).

[55] Currently, this exemption only excludes paragraphs (4) and (6) of Section 15(b) from its scope.

[56] We expect the clearing member to initially provide this certification to Eurex around the time it commences relying on this exemption. To the extent we extend this temporary conditional exemption and include the same type of certification requirement, the clearing member then would annually renew the certification.

[57] *See* note 50, *supra.* In addition, all provisions of the Exchange Act related to the Commission's enforcement authority in connection with violations or potential violations of such provisions would remain applicable. Thus, for example, the Commission retains the ability to investigate potential violations and bring enforcement actions in the federal courts as well as in administrative proceedings, and to seek the full panoply of remedies available in such cases.

[58] These are subject to a separate temporary class exemption. *See* note 1, *supra.* A national securities exchange that effects transactions in Cleared CDS would continue to be required to comply with all requirements under the Exchange Act applicable to such transactions. A national securities exchange could form subsidiaries or affiliates that operate exchanges exempt under that order. Any subsidiary or affiliate of a registered exchange could not integrate, or otherwise link, the exempt CDS exchange with the registered exchange including the premises or property of such exchange for effecting or reporting a transaction without being considered a "facility of the exchange." *See* Section 3(a)(2), 15 U.S.C. 78c(a)(2).

The revised exemptions connected with CDS clearing by Eurex also includes a separate temporary exemption from Sections 5 and 6 in connection with the mark-to-market process of Eurex.

[59] 15 U.S.C. 78*l*, 78m, 78n, 78o(d), 78p. Eligible contract participants and other persons instead should refer to the interim final temporary rules issued by the Commission. *See* note 1, *supra.*

[60] This exemption specifically does not extend to the Exchange Act provisions applicable to government securities, as set forth in Section 15C, 15 U.S.C. 78o–5, and its underlying rules and regulations. The exemption also does not extend to related definitions found at paragraphs (42) through (45) of Section 3(a), 15 U.S.C. 78c(a). The Commission does not have authority under Section 36 to issue exemptions in connection with those provisions. *See* Exchange Act Section 36(b), 15 U.S.C. 78mm(b).

transactions, while also ensuring that important elements of Section 17A of the Exchange Act, which sets forth the framework for the regulation and operation of the U.S. clearance and settlement system for securities, apply to the non-excluded CDS market. The temporary exemption is subject to a number of conditions designed to enable Commission staff to monitor Eurex's clearance and settlement of CDS transactions.[61] The temporary exemption, moreover, in part is based on Eurex's representation that it met the standards set forth in the Committee on Payment and Settlement Systems ("CPSS") and IOSCO report entitled: *Recommendation for Central Counterparties* ("RCCP").[62] The exemption expires on April 23, 2010. For consistency with the other exemptions we are granting in connection with CDS clearing by Eurex, and consistent with our earlier findings, we find pursuant to Section 36 of the Exchange Act that it is necessary and appropriate in the public interest and is consistent with the protection of investors for the Commission to extend, through November 30, 2010, the conditional relief provided from the clearing agency registration requirements of Section 17A we previously granted to Eurex.

Finally, the earlier order also exempts registered broker-dealers, until April 23, 2010, from certain Exchange Act requirements in connection with their activities involving Cleared CDS. In crafting these temporary exemptions, we balanced the need to avoid creating disincentives to the prompt use of CCPs against the critical role that certain broker-dealers play in promoting market integrity and protecting customers (including broker-dealer customers that are not involved with CDS transactions). Accordingly, we exempted registered broker-dealers from provisions of the Exchange Act and the rules and regulations thereunder that do not apply to security-based swap agreements, subject to certain exceptions.[63] For consistency with the other exemptions we are granting in connection with CDS clearing by Eurex, and consistent with our earlier findings, we find pursuant to Section 36 of the Exchange Act that it is necessary and appropriate in the public interest and is consistent with the protection of investors for the Commission to extend, through November 30, 2010, the conditional relief previously provided to registered broker-dealers in connection with Cleared CDS.

F. Solicitation of Comments

When we granted our initial temporary conditional exemptions in connection with CDS clearing by Eurex, we solicited comment on all aspects of the exemptions, and specifically requested comment as to the duration of the temporary exemptions, the appropriateness of the exemptive conditions, and whether Eurex should be required to register as a clearing agency under the Exchange Act. We received no comments in response this request.

In connection with this Order extending the temporary conditional exemptions granted in connection with CDS clearing by Eurex, and expanding that relief to accommodate central clearing of customer CDS transactions, we reiterate our request for comments on all aspects of the exemptions. We particularly request comments as to the relief we are granting in connection with customer clearing, including whether Eurex members that clear customer CDS transactions should be required to register as broker-dealers, whether the conditions that we have placed on the relief adequately protect customer funds and securities from the threat posed by clearing member insolvency, whether additional conditions or requirements are appropriate to promote compliance with the requirements of the exemptions, and what, if any, additional conditions would be appropriate.

We also particularly request comment as to whether the segregation conditions of this Order should extend to certain transfers of variation margin associated with Cleared CDS, as well as whether CDS customers are able to easily access mark-to-market profits associated with Cleared CDS. Do any practices (such as, for example, negotiated "thresholds" in credit support annexes between clearing members and customers) impede customers from demanding and receiving the timely return of such mark-to-market profits? Should the Commission condition any future exemptions on segregating the mark-to-market profits associated with Cleared CDS if they are not returned to customers within a certain amount of time following demand (subject to provisions regarding reasonable minimum transfer amounts, and provisions permitting offset against amounts owing from the customer directly to the clearing member)? Would such a condition impose significant operational or other costs that may deter the clearing of customer CDS transactions? Are there other factors (*e.g.,* costs, benefits, market conditions, economic considerations, or availability of credit hedges) that may reduce the significance of any customer protection benefits provided by requiring segregation of such mark-to-market profits? We also invite comment on whether differences among CDS CCPs regarding protection of mark-to-market profits may have competitive impacts.

In addition, we request comment on how clearing members intend to comply with this Order's condition requiring the segregation of all margin posted by customers connected with purchasing, selling, clearing, settling or holding Cleared CDS positions—not only the gross margin required by Eurex rules. To what extent would clearing firms typically require certain customers to post such "excess" margin above the Eurex requirements in connection with Cleared CDS transactions?

Finally, to what extent do clearing members and customers seek to include Cleared CDS positions within portfolio margining calculations that include other instruments (*e.g.*, non-cleared CDS, other OTC derivatives or securities)? If portfolio margining is used, how do clearing members allocate the total collateral required by a clearing member from a customer between the portion posted in connection with Cleared CDS (and hence subject to this Order's segregation conditions) and the portion attributable to other derivatives transactions involving that clearing member and customer? To the extent a clearing member's portfolio margin calculations include a customer's Cleared CDS positions, is it reasonable to conclude that any portion of the customer margin is not connected with Cleared CDS, and thus does not need to be segregated? Would a dealer's inclusion of Cleared CDS positions in its portfolio margin calculation interfere with the customer protection benefits of CDS clearing in the event of a dealer's insolvency? In other words, would the dealer's cleared CDS customer positions be portable to another dealer if collateralized solely by the Eurex-

[61] *See* July Eurex order.

[62] The RCCP was drafted by a joint task force ("Task Force") composed of representative members of IOSCO and CPSS and published in November 2004. The Task Force consisted of securities regulators and central bankers from 19 countries and the European Union. The U.S. representatives on the Task Force included staff from the Commission, the Federal Reserve Board, and the Commodity Futures Trading Commission.

The RCCP establishes a framework that requires a CCP to have (i) the ability to facilitate the prompt and accurate clearance and settlement of CDS transactions and to safeguard its users' assets; and (ii) sound risk management, including the ability to appropriately determine and collect clearing fund and monitor its users' trading. This framework is generally consistent with the requirements of Section 17A of the Exchange Act.

[63] *See* July Eurex order.

required margin, or would the dealer's cleared CDS customers be placed at a disadvantage in an insolvency situation because of this practice? Should the Commission provide firms with further guidance regarding the inclusion of Cleared CDS in portfolio margin calculations?

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/other.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number S7–17–09 on the subject line; or
- Use the Federal eRulemaking Portal (*http://www.regulations.gov/*). Follow the instructions for submitting comments.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–17–09. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. We will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/other.shtml*). Comments are also available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

III. Conclusion

It is hereby ordered, pursuant to Section 36(a) of the Exchange Act, that, through November 30, 2010:

(a) Exemption from Section 17A of the Exchange Act.

Eurex Clearing AG ("Eurex") shall be exempt from Section 17A of the Exchange Act solely to perform the functions of a clearing agency for Cleared CDS (as defined in paragraph (f)(1) of this Order), subject to the following conditions:

(1) Eurex shall make available on its Web site its annual audited financial statements.

(2) Eurex shall keep and preserve at least one copy of all documents, including all correspondence, memoranda, papers, books, notices, accounts and other such records as shall be made or received by it relating to its Cleared CDS clearance and settlement services. These records shall be kept for at least five years and for the first two years shall be held in an easily accessible place.

(3) Eurex shall supply information and periodic reports relating to its Cleared CDS clearance and settlement services as may be reasonably requested by the Commission, and shall provide access to the Commission to conduct on-site inspections of all facilities (including automated systems and systems environment), records, and personnel related to Eurex's Cleared CDS clearance and settlement services.

(4) Eurex shall notify the Commission, on a monthly basis, of any material disciplinary actions taken against any of its members using its Cleared CDS clearance and settlement services, including the denial of services, fines, or penalties. Eurex shall notify the Commission promptly when it terminates on an involuntary basis the membership of an entity that is using Eurex's Cleared CDS clearance and settlement services. Both notifications shall describe the facts and circumstances that led to Eurex's disciplinary action.

(5) Eurex shall notify the Commission of all changes to its rules, procedures, and any other material events affecting its Cleared CDS clearance and settlement services, including its fee schedule and changes to risk management practices, not less than one day prior to effectiveness or implementation of such changes or, in exigent circumstances, as promptly as reasonably practicable under the circumstances. All such rule changes will be posted on Eurex's Web site. Such notifications will not be deemed rule filings that require Commission approval.

(6) Eurex shall provide the Commission with reports prepared by independent audit personnel concerning its Cleared CDS clearance and settlement services that are generated in accordance with risk assessment of the areas set forth in the Commission's Automation Review Policy Statements. Eurex shall provide the Commission with annual audited financial statements for Eurex prepared by independent audit personnel.

(7) Eurex shall report all significant systems outages to the Commission. If it appears that the outage may extend for 30 minutes or longer, Eurex shall report the systems outage immediately. If it appears that the outage will be resolved in fewer than 30 minutes, Eurex shall report the systems outage within a reasonable time after the outage has been resolved.

(8) Eurex, directly or indirectly, shall make available to the public on terms that are fair and reasonable and not unreasonably discriminatory: (i) All end-of-day settlement prices and any other prices with respect to Cleared CDS that Eurex may establish to calculate mark-to-market margin requirements for Eurex clearing members; and (ii) any other pricing or valuation information with respect to Cleared CDS as is published or distributed by Eurex.

(b) Exemption From Sections 5 and 6 of the Exchange Act

(1) Eurex shall be exempt from the requirements of Sections 5 and 6 of the Exchange Act and the rules and regulations thereunder in connection with its calculation of mark-to-market prices for open positions in Cleared CDS, subject to the following conditions:

(i) Eurex shall report the following information with respect to the calculation of mark-to-market prices for Cleared CDS to the Commission within 30 days of the end of each quarter, and preserve such reports during the life of the enterprise and of any successor enterprise:

(A) The total volume of transactions, expressed in the currency of the underlying instrument, executed during the quarter, broken down by reference entity, security, or index; and

(B) The total unit volume and/or notional amount executed during the quarter, broken down by reference entity, security, or index;

(ii) Eurex shall establish and maintain adequate safeguards and procedures to protect clearing members' confidential trading information. Such safeguards and procedures shall include: (A) Limiting access to the confidential trading information of clearing members to those employees of Eurex who are operating the system or responsible for its compliance with this exemption or any other applicable rules; and (B) establishing and maintaining standards controlling employees of Eurex trading for their own accounts. Eurex must establish and maintain adequate oversight procedures to ensure that the safeguards and procedures established pursuant to this condition are followed; and

(iii) Eurex shall satisfy the conditions of the temporary exemption from Section 17A of the Exchange Act set forth in paragraphs (a)(1)–(8) of this Order.

(2) Any Eurex clearing member shall be exempt from the requirements of

Section 5 of the Exchange Act to the extent such Eurex clearing member uses any facility of Eurex to effect any transaction in Cleared CDS, or to report any such transaction, in connection with Eurex's clearance and risk management process for Cleared CDS.

(c) Exemption for Eurex, Eurex clearing members, and certain eligible contract participants.

(1) Persons eligible. The exemption in paragraph (c)(2) is available to:

(i) Eurex; and

(ii) Any eligible contract participant (as defined in Section 1a(12) of the Commodity Exchange Act as in effect on the date of this Order (other than a person that is an eligible contract participant under paragraph (C) of that section)), including any Eurex clearing member, other than:

(A) an eligible contract participant that is a self-regulatory organization, as that term is defined in Section 3(a)(26) of the Exchange Act; or

(B) a broker or dealer registered under Section 15(b) of the Exchange Act (other than paragraph (11) thereof).

(2) Scope of exemption.

(i) In general. Subject to the conditions specified in paragraph (c)(3) of this subsection, such persons generally shall, solely with respect to Cleared CDS, be exempt from the provisions of the Exchange Act and the rules and regulations thereunder that do not apply in connection with security-based swap agreements. Accordingly, under this exemption, those persons remain subject to those Exchange Act requirements that explicitly are applicable in connection with security-based swap agreements (*i.e.*, paragraphs (2) through (5) of Section 9(a), Section 10(b), Section 15(c)(1), paragraphs (a) and (b) of Section 16, Section 20(d) and Section 21A(a)(1) and the rules thereunder that explicitly are applicable to security-based swap agreements). All provisions of the Exchange Act related to the Commission's enforcement authority in connection with violations or potential violations of such provisions also remain applicable.

(ii) Exclusions from exemption. The exemption in paragraph (c)(2)(i), however, does not extend to the following provisions under the Exchange Act:

(A) Paragraphs (42), (43), (44), and (45) of Section 3(a);

(B) Section 5;

(C) Section 6;

(D) Section 12 and the rules and regulations thereunder;

(E) Section 13 and the rules and regulations thereunder;

(F) Section 14 and the rules and regulations thereunder;

(G) The broker-dealer registration requirements of Section 15(a)(1), and the other requirements of the Exchange Act (including paragraphs (4) and (6) of Section 15(b)) and the rules and regulations thereunder that apply to a broker or dealer that is not registered with the Commission;

(H) Section 15(d) and the rules and regulations thereunder;

(I) Section 15C and the rules and regulations thereunder;

(J) Section 16 and the rules and regulations thereunder; and

(K) Section 17A (other than as provided in paragraph (a)).

(3) Conditions for Eurex clearing members.

(i) Any Eurex clearing member relying on this exemption must be in material compliance with the rules of Eurex.

(ii) Any Eurex clearing member relying on this exemption that participates in the clearing of Cleared CDS transactions on behalf of other persons must annually provide a certification to Eurex that attests to whether the clearing member is relying on the exemption from broker-dealer related requirements set forth in paragraph (d) of this Order.

(d) Exemption from broker-dealer related requirements for Eurex clearing members and certain eligible contract participants.

(1) Persons eligible. The exemption in paragraph (d)(2) is available to:

(i) Any Eurex clearing member (other than one that is registered as a broker or dealer under Section 15(b) of the Exchange Act (other than paragraph (11) thereof)); and

(ii) Any eligible contract participant that does not receive or hold funds or securities for the purpose of purchasing, selling, clearing, settling, or holding Cleared CDS positions for other persons (other than one that is registered as a broker or dealer under Section 15(b) of the Exchange Act (other than paragraph (11) thereof)).

(2) Scope of exemption. The persons described in paragraph (d)(1) shall, solely with respect to Cleared CDS, be exempt from the broker-dealer registration requirements of Section 15(a)(1) and the other requirements of the Exchange Act (other than Sections 15(b)(4) and 15(b)(6)) and the rules and regulations thereunder that apply to a broker or dealer that is not registered with the Commission, subject to the conditions set forth in paragraph (d)(3) with respect to Eurex clearing members.

(3) Conditions for Eurex clearing members.

(i) General condition for Eurex clearing members. A Eurex clearing member relying on this exemption must be in material compliance with the rules of Eurex, and also must be in material compliance with applicable laws and regulations relating to capital, liquidity, and segregation of customers' funds and securities (and related books and records provisions) with respect to Cleared CDS.

(ii) Additional conditions for Eurex clearing members that receive or hold customer funds or securities. Any Eurex clearing member that receives or holds funds or securities for the purpose of purchasing, selling, clearing, settling, or holding Cleared CDS positions for U.S. persons (or for any person if the clearing member is a U.S. clearing member)—other than for an affiliate that controls, is controlled by, or is under common control with the clearing member—also shall comply with the following conditions with respect to such activities:

(A) The U.S. person (or any person if the clearing member is a U.S. clearing member) for whom the clearing member receives or holds such funds or securities shall not be natural persons;

(B) The clearing member shall disclose to such U.S. person (or to any such person if the clearing member is a U.S. clearing member) that the clearing member is not regulated by the Commission and that U.S. broker-dealer segregation requirements and protections under the Securities Investor Protection Act will not apply to any funds or securities held by the clearing member, that the insolvency law of the applicable jurisdiction may affect such persons' ability to recover funds and securities, or the speed of any such recovery, in an insolvency proceeding, and, if applicable, that non-U.S. clearing members may be subject to an insolvency regime that is materially different from that applicable to U.S. persons;

(C) As promptly as practicable after receipt, the clearing member shall transfer such funds and securities (other than those promptly returned to such other person) to:

(I) The appropriate customer margin account at Eurex; or

(II) an account held by a third-party custodian, subject to the following requirements:

(*a*) the funds and securities must be held either:

(*1*) In the name of a customer, subject to an agreement to which the customer, the clearing member and the custodian are parties, acknowledging that the assets held therein are customer assets used to collateralize obligations of the customer to the clearing member, and that the assets held in that account may not otherwise be pledged or

rehypothecated by the clearing member or the custodian; or

(*2*) in an omnibus account for which the clearing member maintains a daily record as to the amount held in the account that is owed to each customer, and which is subject to an agreement between the clearing member and the custodian specifying that:

(*i*) All assets in that account are held for the exclusive benefit of the clearing member's customers and are being kept separate from any other accounts maintained by the clearing member with the custodian;

(*ii*) the assets held in that account shall at no time be used directly or indirectly as security for a loan to the clearing member by the custodian and shall be subject to no right, charge, security interest, lien, or claim of any kind in favor of the custodian or any person claiming through the custodian; and

(*iii*) the assets held in that account may not otherwise be pledged or rehypothecated by the clearing member or the custodian;

(*b*) the custodian may not be an affiliated person of the clearing member (as defined at paragraph (f)(2)); and

(*1*) if the custodian is a U.S. entity, it must be a bank (as that term is defined in section 3(a)(6) of the Exchange Act), have total capital, as calculated to meet the applicable requirements imposed by the entity's appropriate regulatory agency (as defined in section 3(a)(34) of the Exchange Act), of at least $1 billion, and have been approved to engage in a trust business by its appropriate regulatory agency;

(*2*) if the custodian is not a U.S. entity, it must have total capital, as calculated to meet the applicable requirements imposed by the foreign financial regulatory authority (as defined in section 3(a)(52) of the Exchange Act) responsible for setting capital requirements for the entity, equating to at least $1 billion, and provide the clearing member, the customer and Eurex with a legal opinion providing that the assets held in the account are subject to regulatory requirements in the custodian's home jurisdiction designed to protect, and provide for the prompt return of, custodial assets in the event of the insolvency of the custodian, and that the assets held in that account reasonably could be expected to be legally separate from the clearing member's assets in the event of the clearing member's insolvency;

(*c*) such funds may be invested in investments that constitute "approved instruments" pursuant to part 2.2 under the Eurex Organizational Manual; and

(*d*) the clearing member must provide notice to Eurex that it is using the third-party custodian to hold customer collateral.

(D) To the extent there is any delay in transferring such funds and securities to the third-parties identified in paragraph (C), the clearing member shall effectively segregate the collateral in a way that, pursuant to applicable law, is reasonably expected to effectively protect such funds and securities from the clearing member's creditors. The clearing member shall not permit such persons to "opt out" of such segregation even if regulations or laws otherwise would permit such "opt out."

(E) The clearing member annually must provide Eurex with:

(I) An assessment by the clearing member that it is in compliance with all the provisions of paragraphs (d)(3)(ii)(A) through (D) in connection with such activities, and

(II) a report by the clearing member's independent third-party auditor that attests to, and reports on, the clearing member's assessment described in paragraph (d)(3)(ii)(E)(I) and that is

(*a*) dated as of the same date as, but which may be separate and distinct from, the clearing member's annual audit report;

(*b*) produced in accordance with the auditing standards followed by the independent third party auditor in its audit of the clearing member's financial statements.

(F) The clearing member shall provide the Commission (upon request or pursuant to agreements reached between the Commission or the U.S. Government and any foreign securities authority (as defined in Section 3(a)(50) of the Exchange Act)) with any information or documents within the possession, custody, or control of the clearing member, any testimony of personnel of the clearing member, and any assistance in taking the evidence of other persons, wherever located, that the Commission requests and that relates to Cleared CDS transactions, except that if, after the clearing member has exercised its best efforts to provide the information, documents, testimony, or assistance, including requesting the appropriate governmental body and, if legally necessary, its customers (with respect to customer information) to permit the clearing member to provide the information, documents, testimony, or assistance to the Commission, the clearing member is prohibited from providing this information, documents, testimony, or assistance by applicable foreign law or regulations, then this exemption shall not longer be available to the clearing member.

(e) Exemption for certain registered broker-dealers.

A broker or dealer registered under Section 15(b) of the Exchange Act (other than paragraph (11) thereof) shall be exempt from the provisions of the Exchange Act and the rules and regulations thereunder specified in paragraph (c)(2), solely with respect to Cleared CDS, except:

(1) Section 7(c);
(2) Section 15(c)(3);
(3) Section 17(a);
(4) Section 17(b);
(5) Regulation T, 12 CFR 200.1 *et seq.*;
(6) Rule 15c3–1;
(7) Rule 15c3–3;
(8) Rule 17a–3;
(9) Rule 17a–4;
(10) Rule 17a–5; and
(11) Rule 17a–13.

(f) Definitions.

For purposes of this Order:

(1) "Cleared CDS" shall mean a credit default swap that is submitted (or offered, purchased, or sold on terms providing for submission) to Eurex, that is offered only to, purchased only by, and sold only to eligible contract participants (as defined in Section 1a(12) of the Commodity Exchange Act as in effect on the date of this Order (other than a person that is an eligible contract participant under paragraph (C) of that section)), and in which:

(i) The reference entity, the issuer of the reference security, or the reference security is one of the following:

(A) An entity reporting under the Exchange Act, providing Securities Act Rule 144A(d)(4) information, or about which financial information is otherwise publicly available;

(B) A foreign private issuer whose securities are listed outside the United States and that has its principal trading market outside the United States;

(C) A foreign sovereign debt security;

(D) An asset-backed security, as defined in Regulation AB, issued in a registered transaction with publicly available distribution reports; or

(E) An asset-backed security issued or guaranteed by Fannie Mae, Freddie Mac or Ginnie Mae; or

(ii) The reference index is an index in which 80 percent or more of the index's weighting is comprised of the entities or securities described in subparagraph (i).

(2) For purposes of this Order, the term "Affiliated Person of the Clearing Member" shall mean any person who directly or indirectly controls a clearing member or any person who is directly or indirectly controlled by or under common control with the clearing member. Ownership of 10 percent or more of the common stock of the relevant entity will be deemed *prima facie* control of that entity.

IV. Paperwork Reduction Act

Certain provisions of this Order contain "collection of information requirements" within the meaning of the Paperwork Reduction Act of 1995.[64] The Commission has submitted the proposed amendments to the Office of Management and Budget ("OMB") for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. 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.

A. Collection of Information

As discussed above, the Commission has found it to be necessary or appropriate in the public interest and consistent with the protection of investors to grant the temporary conditional exemptions discussed in this Order through November 30, 2010. Among other things, the Order would require a Eurex clearing member that receives or holds customers' funds or securities for the purpose of purchasing, selling, clearing, settling, or holding Cleared CDS positions to; (i) provide Eurex with certain certifications/notifications, (ii) make certain disclosures to Cleared CDS customers, (iii) enter into certain agreements to protect customer assets, (iv) maintain a record of each customer's share of assets maintained in an omnibus account, and (v) obtain a separate report, as part of its annual audit report, as to its compliance with the conditions of the Order regarding protection of customer assets.

B. Proposed Use of Information

These collection of information requirements are designed to, among other things, inform Cleared CDS customers that their ability to recover assets placed with the clearing member are dependent on the applicable insolvency regime, provide Commission staff with access to information regarding whether clearing members are complying with the conditions of this Order, and provide documentation helpful for the protection of Cleared CDS customers' funds and securities.

C. Respondents

Based on conversations with industry participants, the Commission understands that approximately 12 firms may be presently engaged as CDS dealers and thus may seek to be a clearing member of Eurex. In addition, 8 more firms may enter into this business. Consequently, the Commission estimates that Eurex, like the other CCPs that clear CDS transactions, may have up to 20 clearing members.

D. Total Annual Reporting and Recordkeeping Burden

Paragraph III.(c)(3)(ii) of the Order requires any Eurex clearing member relying on the exemptive relief specified in paragraph (c) that participates in the clearing of Cleared CDS transactions on behalf of other persons to annually provide a certification to Eurex that attests to whether the clearing member is relying on the exemption from broker-dealer related requirements set forth in paragraph (d) of this Order. The Commission estimates that it would take a clearing member approximately one half hour each year to complete the certification and provide it to Eurex, resulting in an aggregate burden of 10 hours per year for all 20 clearing members to comply with this requirement on an annual basis.[65]

Paragraph III.(d)(3)(ii)(C)(II)(*d*) of the Order requires that a clearing member notify Eurex if it is using a third-party custodian to hold customer collateral. The Commission estimates that it would take a clearing member approximately one half hour each year to draft a notification and provide it to Eurex, which would result in an aggregate burden of 10 hours per year for all 20 clearing members to comply with this requirement on an annual basis.[66]

Paragraph III.(d)(3)(ii)(B) of the Order requires an Eurex clearing member to disclose to its U.S. customers[67] that it is not regulated by the Commission and that U.S. broker-dealer segregation requirements and protections under the Securities Investor Protection Act will not apply to any funds or securities it holds, that the insolvency law of the applicable jurisdiction may affect the customers' ability to recover funds and securities, or the speed of any such recovery, in an insolvency proceeding, and, if it is not a U.S. entity, that it may be subject to an insolvency regime that is materially different from that applicable to U.S. persons. The Commission believes that clearing members could use the language in the Order that describes the disclosure that must be made as a template to draft the disclosure. Consequently the Commission estimates, based on staff experience, that it would take a clearing member approximately one hour to draft the disclosure. Further, the Commission believes clearing members will include this disclosure with other documents or agreements provided to cleared CDS customers and a clearing member may take approximately one half hour to determine how the disclosure should be integrated into those other documents or agreements, resulting in a one-time aggregate burden of 30 hours for all 20 clearing members to comply with this requirement.[68]

Paragraph III.(d)(3)(ii)(C)(II)(*a*)(*1*) of the Order requires that, if an Eurex clearing member chooses to segregate each of its customers' funds and securities in a separate account, it must obtain a tri-party agreement for each such account acknowledging that the assets held in the account are customer assets used to collateralize obligations of the customer to the clearing member, and that the assets held in the account may not otherwise be pledged or re-hypothecated by the clearing member or the custodian. Paragraph III.(d)(ii)(C)(II)(*a*)(*2*) of the Order requires that, if an Eurex clearing member chooses to segregate its customers' funds and securities on an omnibus basis, it must obtain an agreement with the custodian with respect to the omnibus account acknowledging that the assets held in the account (i) are customer assets and are being kept separate from any other accounts maintained by the clearing member with the custodian, (ii) may at no time be used directly or indirectly as security for a loan to the clearing member by the custodian and shall be subject to no right, charge, security interest, lien, or claim of any kind in favor of the custodian or any person claiming through the custodian, and (iii) may not otherwise be pledged or re-hypothecated by the clearing member or the custodian. Opening a bank account generally includes discussions regarding the purpose for the account and a determination as to the terms and conditions applicable to such an account. We understand that most banks presently maintain omnibus and other similar types of accounts that are designed to recognize legally that the assets in the account may not be attached to cover debts of the account

[64] 44 U.S.C. 3501 *et seq.*

[65] 10 hours = (20 clearing members × ½ hour per clearing member). This estimate is based on burden estimates published with respect to other Commission actions that contained similar certification requirements (*see e.g.,* Exchange Act Release No. 41661 (Jul 27, 1999), 64 FR 42012 (Aug. 3, 1999), and the burden associated with the Year 2000 Operational Capability Requirements, including notification and certifications required by Rule 15b7–3T(e)).

[66] *Id.*

[67] If the clearing member is a U.S. entity, it must make this disclosure to all of its customers.

[68] 30 hours = (1 hour per clearing member to draft the disclosure + ½ hour per clearing member to determine how the disclosure should be integrated into those other documents or agreements) × 20 clearing members.

holder. Thus the standard agreement for this type of account used by banks should contain the representations and disclosures required by the proposed amendment. However, a small percentage of clearing members may need to work with a bank to modify its standard agreement. We estimate that 5% of the 20 clearing members, or 1 firm, may use a bank with a standard agreement that does not contain the required language.[69] We further estimate each clearing member that uses a bank with a standard agreement that does not contain the required language would spend approximately 20 hours of employee resources working with the bank to update its standard agreement template.[70] Therefore, we estimate that the total one-time burden to the industry as a result of this proposed requirement would be approximately 20 hours.[71]

Paragraph III.(d)(3)(ii)(C)(II)(*a*)(*2*) of the Order further requires that the clearing member maintain a daily record as to the amount held in the omnibus account that is owed to each customer. The Commission included this requirement in the Order to stress the importance of such a record. However it believes that a prudent clearing member likely would create and maintain such a record for business purposes. Consequently, the Commission believes this requirement would not create any additional paperwork burden.

Paragraph III.(d)(3)(ii)(E) of the Order requires Eurex clearing members that receive or hold customers' funds or securities for the purpose of purchasing, selling, clearing, settling, or holding Cleared CDS positions annually to provide Eurex with an assessment that it is in compliance with all the provisions of paragraphs III.(d)(3)(ii)(A) through (D) of the Order in connection with such activities, and a report by the clearing member's independent third-party auditor, as of the same date as the firm's annual audit report,[72] that attests to, and reports on, the clearing member's assessment. The Commission estimates that it will take each clearing member approximately five hours each year to assess its compliance with the requirements of the order relating to segregation of customer assets and attest that it is in compliance with those requirements.[73] Further, the Commission estimates that it will cost each clearing member approximately $200,000 more each year to have its auditor prepare this special report as part of its audit of the clearing member.[74] Consequently, the Commission estimates that compliance with this requirement will result in an aggregate annual burden of 100 hours for all 20 clearing members, and that the total additional cost of this requirement will be approximately $4,000,000 each year.[75]

In sum, the Commission estimates that the total additional burden associated with all of the conditions contained in the exemptive order would be approximately 170 hours,[76] and that the total additional cost associated with compliance with the exemptive order would be approximately $4 million.[77]

E. Collection of Information Is Mandatory

The collections of information contained in the conditions to the Order are mandatory for any entity wishing to rely on the exemptions granted by the Order.

F. Confidentiality

Certain of the conditions of this Order that address collections of information require Eurex clearing members to make disclosures to their customers, or to provide other information to Eurex (and in some cases also to customers). Apart from those requirements, the provisions of this Order that address collections of information do not address or restrict the confidentiality of the documentation prepared by Eurex clearing members under the exemptive conditions. Accordingly, Eurex clearing members would have to make the applicable information available to regulatory authorities or other persons to the extent otherwise provided by law.

G. Request for Comment on Paperwork Reduction Act

The Commission requests, pursuant to 44 U.S.C. 3506(c)(2)(B), comment on the collections of information contained in the Order to:

(i) Evaluate whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information would have practical utility;

(ii) evaluate the accuracy of the Commission's estimates of the burden of the collections of information;

(iii) determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and

(iv) evaluate whether there are ways to minimize the burden of the collections of information on those required to respond, including through the use of automated collection techniques or other forms of information technology.

Persons who desire to submit comments on the collection of information requirements should direct their comments to the OMB, Attention: Desk Officer for the Securities and

[69] This estimate is based on burden estimates published with respect to other Commission actions that contained similar certification requirements (*see e.g.,* Exchange Act Release No. 55431 (Mar. 9, 2007), 72 FR 12862 (Mar. 19, 2007), and the burden associated with the amendments to the financial responsibility rules, including language required in securities lending agreements).

[70] *Id.*

[71] 20 hours = (20 clearing members × 5%) × 20 hours to work with a bank to update its standard agreement template to include the necessary language.

[72] The Commission intends for this requirement to be performed in conjunction with the firm's annual audit report.

[73] This estimate is based on burden estimates published with respect to other Commission actions that contained similar certification requirements (*see e.g.,* Securities Act Release No. 8138 (Oct. 9, 2002) (67 FR 66208 (Oct. 30, 2002)), and the burden associated with the Disclosure Required by the Sarbanes-Oxley Act of 2002, including requirements relating to internal control reports).

[74] This estimate is based on staff conversations with an audit firm. That firm suggested that the cost of such an audit report could range from $10,000 to $1 million, depending on the size of the clearing member, the complexity of its systems, and whether the work included a review of other systems already being reviewed as part of audit work the firms is already providing to the clearing member. The staff understands that it would be less costly to perform this type of audit if the clearing member chooses to forward all customer collateral to Eurex (an option allowed by the order) and does not use any third party. Finally, the staff understands that most Eurex clearing members are large dealers whose audits likely include internal control reviews and SAS 70 reports regarding custody of customer assets, which would require a review of the same or similar systems used to comply with the audit report requirement in this order.

[75] 100 hours = (5 hours for each clearing member to assess its compliance with the requirements of the order relating to segregation of customer assets and attest that it is in compliance with those requirements × 20 clearing members). $4 million = $200,000 per clearing member × 20 clearing members.

[76] 170 hours = (10 hours per year to complete the certification and provide it to Eurex + 10 hours per year to prepare the notification + 30 hours to draft the disclosure and determine how the disclosure should be integrated into those other documents or agreements + 20 hours to work with the bank to update its standard account agreement template to include the necessary language + 100 hours per year to assess its compliance with the requirements of the order relating to segregation of customer assets and attest that it is in compliance with those requirements). This total burden includes one-time burdens of 50 hours (= 30 hours to draft the disclosure and determine how the disclosure should be integrated into those other documents or agreements + 20 hours to work with the bank to update its standard account agreement template to include the necessary language) and annual burdens of 120 hours (=10 hours per year to complete the certification and provide it to Eurex + 10 hours per year to prepare the notification + 100 hours per year to assess its compliance with the requirements of the order relating to segregation of customer assets and attest that it is in compliance with those requirements).

[77] The estimated cost of the additional audit report. *See* footnote 75 and accompanying text.

Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and should also send a copy of their comments to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090, and refer to File No. S7–17–09. OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication of this document in the **Federal Register;** therefore, comments to OMB are best assured of having full effect if OMB receives them within 30 days of this publication. The Commission has submitted the proposed collections of information to OMB for approval. Requests for the materials submitted to OMB by the Commission with regard to these collections of information should be in writing, refer to File No. S7–17–09, and be submitted to the Securities and Exchange Commission, Office of Investor Education and Advocacy, 100 F Street, NE., Washington, DC 20549–0213.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–9931 Filed 4–28–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61973; File No. S7–16–09]

Order Extending Temporary Conditional Exemptions Under the Securities Exchange Act of 1934 in Connection With Request on Behalf of ICE Clear Europe, Limited Related to Central Clearing of Credit Default Swaps, and Request for Comments

April 23, 2010.

I. Introduction

The Securities and Exchange Commission ("Commission") has taken multiple actions [1] designed to address concerns related to the market in credit default swaps ("CDS").[2] The over-the-counter ("OTC") market for CDS has been a source of particular concern to us and other financial regulators, and we have recognized that facilitating the establishment of central counterparties ("CCPs") for CDS can play an important role in reducing the counterparty risks inherent in the CDS market, and thus can help mitigate potential systemic impact. We have therefore found that taking action to help foster the prompt development of CCPs, including granting temporary conditional exemptions from certain provisions of the Federal securities laws, is in the public interest.[3]

The Commission's authority over the OTC market for CDS is limited. Specifically, section 3A of the Securities Exchange Act of 1934 ("Exchange Act") limits the Commission's authority over swap agreements, as defined in section 206A of the Gramm-Leach-Bliley Act.[4] For those CDS that are swap agreements, the exclusion from the definition of security in section 3A of the Exchange Act, and related provisions, will continue to apply. The Commission's action today does not affect these CDS, and this Order does not apply to them. For those CDS that are not swap agreements ("non-excluded CDS"), the Commission's action today provides temporary conditional exemptions from certain requirements of the Exchange Act.

The Commission believes that using well-regulated CCPs to clear transactions in CDS provides a number of benefits by helping to promote efficiency and reduce risk in the CDS market, by contributing to the goal of market stability, and by requiring maintenance of records of CDS transactions that would aid the Commission's efforts to prevent and detect fraud and other abusive market practices.[5]

In the 2009 ICE Clear Europe Order, the Commission provided temporary conditional exemptions to ICE Clear Europe, Limited ("ICE Clear Europe") and certain other parties to permit ICE Clear Europe to clear and settle CDS transactions.[6] The current exemptions

[1] *See generally* Securities Exchange Act Release No. 60372 (Jul. 23, 2009), 74 FR 37748 (Jul. 29, 2009) (temporary exemptions in connection with CDS clearing by ICE Clear Europe Limited) ("2009 ICE Clear Europe order"); Securities Exchange Act Release No. 60373 (Jul. 23, 2009), 74 FR 37740 (Jul. 29, 2009) and Securities Exchange Act Release No. 61975 (Apr. 23, 2010) (temporary exemptions in connection with CDS clearing by Eurex Clearing AG); Securities Exchange Act Release No. 59578 (Mar. 13, 2009), 74 FR 11781 (Mar. 19, 2009), Securities Exchange Act Release No. 61164 (Dec. 14, 2009), 74 FR 67258 (Dec. 18, 2009) and Securities Exchange Act Release No. 61803 (Mar. 30, 2010), 75 FR 17181 (Apr. 5, 2010) (temporary exemptions in connection with CDS clearing by Chicago Mercantile Exchange Inc.); Securities Exchange Act Release No. 59527 (Mar. 6, 2009), 74 FR 10791 (Mar. 12, 2009), Securities Exchange Act Release No. 61119 (Dec. 4, 2009), 74 FR 65554 (Dec. 10, 2009) and Securities Exchange Act Release No. 61662 (Mar. 5, 2010), 75 FR 11589 (Mar. 11, 2010) (temporary exemptions in connection with CDS clearing by ICE Trust US LLC); Securities Exchange Act Release No. 59164 (Dec. 24, 2008), 74 FR 139 (Jan. 2, 2009) (temporary exemptions in connection with CDS clearing by LIFFE A&M and LCH.Clearnet Ltd.) and other Commission actions discussed in several of these orders.

In addition, we have issued interim final temporary rules that provide exemptions under the Securities Act of 1933 and the Securities Exchange Act of 1934 for CDS to facilitate the operation of one or more central counterparties for the CDS market. *See* Securities Act Release No. 8999 (Jan. 14, 2009), 74 FR 3967 (Jan. 22, 2009) (initial approval); Securities Act Release No. 9063 (Sep. 14, 2009), 74 FR 47719 (Sep. 17, 2009) (extension until Nov. 30, 2010).

Further, the Commission provided temporary exemptions in connection with Sections 5 and 6 of the Securities Exchange Act of 1934 for transactions in CDS; these exemptions expired on March 24, 2010. *See* Securities Exchange Act Release No. 59165 (Dec. 24, 2008), 74 FR 133 (Jan. 2, 2009) (initial exemption); Securities Exchange Act Release No. 60718 (Sep. 25, 2009), 74 FR 50862 (Oct. 1, 2009) (extension until Mar. 24, 2010).

[2] A CDS is a bilateral contract between two parties, known as counterparties. The value of this financial contract is based on underlying obligations of a single entity ("reference entity") or on a particular security or other debt obligation, or an index of several such entities, securities, or obligations. The obligation of a seller to make payments under a CDS contract is triggered by a default or other credit event as to such entity or entities or such security or securities. Investors may use CDS for a variety of reasons, including to offset or insure against risk in their fixed-income portfolios, to take positions in bonds or in segments of the debt market as represented by an index, or to take positions on the volatility in credit spreads during times of economic uncertainty.

Growth in the CDS market has coincided with a significant rise in the types and number of entities participating in the CDS market. CDS were initially created to meet the demand of banking institutions looking to hedge and diversify the credit risk attendant to their lending activities. However, financial institutions such as insurance companies, pension funds, securities firms, and hedge funds have entered the CDS market.

[3] *See generally* actions referenced in note 1, *supra.*

[4] 15 U.S.C. 78c–1. Section 3A excludes both a non-security-based and a security-based swap agreement from the definition of "security" under Section 3(a)(10) of the Exchange Act, 15 U.S.C. 78c(a)(10). Section 206A of the Gramm-Leach-Bliley Act defines a "swap agreement" as "any agreement, contract, or transaction between eligible contract participants (as defined in section 1a(12) of the Commodity Exchange Act * * *) * * * the material terms of which (other than price and quantity) are subject to individual negotiation." 15 U.S.C. 78c note.

[5] *See generally* actions referenced in note 1, *supra.*

[6] For purposes of this Order, "Cleared CDS" means a credit default swap that is submitted (or offered, purchased, or sold on terms providing for submission) to ICE Clear Europe, that is offered only to, purchased only by, and sold only to eligible contract participants (as defined in Section 1a(12) of the Commodity Exchange Act as in effect on the date of this Order (other than a person that is an eligible contract participant under paragraph (C) of that section)), and in which: (i) The reference entity, the issuer of the reference security, or the reference security is one of the following: (A) An entity reporting under the Exchange Act, providing Securities Act Rule 144A(d)(4) information, or about which financial information is otherwise publicly available; (B) a foreign private issuer whose securities are listed outside the United States and that has its principal trading market outside the United States; (C) a foreign sovereign debt security; (D) an asset-backed security, as defined in Regulation AB, issued in a registered transaction with publicly available distribution reports; or (E) an asset-backed security issued or guaranteed by the Federal National Mortgage Association ("Fannie Mae"), the Federal Home Loan Mortgage

are scheduled to expire on April 23, 2010, and ICE Clear Europe has requested that the Commission extend those exemptions.[7]

Based on the facts presented and the representations made by ICE Clear Europe,[8] and for the reasons discussed in this Order and subject to certain conditions, the Commission is extending each of the existing exemptions connected with CDS clearing by ICE Clear Europe: the temporary conditional exemption granted to ICE Clear Europe from clearing agency registration under Section 17A of the Exchange Act solely to perform the functions of a clearing agency for certain non-excluded CDS transactions; the temporary conditional exemption of ICE Clear Europe and certain of its clearing members from the registration requirements of Sections 5 and 6 of the Exchange Act solely in connection with the calculation of mark-to-market prices for non-excluded CDS cleared by ICE Clear Europe; the temporary conditional exemption of eligible contract participants and others from certain Exchange Act requirements with respect to non-excluded CDS cleared by ICE Clear Europe; and the temporary exemption from certain Exchange Act requirements granted to registered broker-dealers. This extension is temporary, and the exemptions will expire on November 30, 2010.

II. Discussion

In its request for an extension, ICE Clear Europe represents that there have been no material changes to the operations of ICE Clear Europe and the representations in the 2009 ICE Clear Europe Order remain true in all material respects.[9] These representations are discussed in detail in the 2009 ICE Clear Europe Order.

A. ICE Clear Europe's CDS Clearing Activities to Date

ICE Clear Europe has cleared proprietary CDS transactions of its clearing members since July 2009. As of March 16, 2010, ICE Clear Europe had cleared approximately €1.4 trillion notional amount of CDS contracts based on indices of securities.

In December 2009, ICE Clear Europe commenced clearing CDS contracts based on individual reference entities or securities. As of March 16, ICE Clear Europe had cleared approximately €99 billion notional amount of CDS contracts based on individual reference entities or securities.

B. Extended Temporary Conditional Exemption From Clearing Agency Registration Requirement

On July 23, 2009, in connection with its efforts to facilitate the establishment of one or more central counterparties ("CCP") for Cleared CDS, the Commission issued the 2009 ICE Clear Europe Order, which conditionally exempted ICE Clear Europe from clearing agency registration under Section 17A of the Exchange Act on a temporary basis. Subject to the conditions in the 2009 ICE Clear Europe Order, ICE Clear Europe is permitted to act as a CCP for Cleared CDS by novating trades of non-excluded CDS that are securities and generating money and settlement obligations for participants without having to register with the Commission as a clearing agency. The 2009 ICE Clear Europe Order is effective until April 23, 2010.

In the 2009 ICE Clear Europe Order, the Commission recognized the need to facilitate the prompt establishment of ICE Clear Europe as a CCP for CDS transactions. The Commission also recognized the need to ensure that important elements of Section 17A of the Exchange Act,[10] which sets forth the framework for the regulation and operation of the U.S. clearance and settlement system for securities, apply to the non-excluded CDS market. Accordingly, the temporary exemption in the 2009 ICE Clear Europe Order were subject to a number of conditions designed to enable Commission staff to monitor ICE Clear Europe's clearance and settlement of CDS transactions.[11] Moreover, the temporary exemption in the 2009 ICE Clear Europe Order in part was based on ICE Clear Europe's representation that it met the standards set forth in the Committee on Payment and Settlement Systems ("CPSS") and International Organization of Securities Commissions ("IOSCO") report entitled: *Recommendations for Central Counterparties* ("RCCP").[12] The RCCP establishes a framework that requires a CCP to have: (i) The ability to facilitate the prompt and accurate clearance and settlement of CDS transactions and to safeguard its users' assets; and (ii) sound risk management, including the ability to appropriately determine and collect clearing fund and monitor its users' trading. This framework is generally consistent with the requirements of Section 17A of the Exchange Act.

The Commission believes that continuing to facilitate the central clearing of CDS transactions through a temporary conditional exemption from Section 17A will continue to provide important risk management and systemic benefits by avoiding an interruption in those CCP clearance and settlement services. Any interruption in CCP clearance and settlement services for CDS transactions would eliminate in the future the benefits ICE Clear Europe provides to the non-excluded CDS market. Accordingly, and consistent with our findings in the 2009 ICE Clear Europe Order and for the reasons described herein, we find pursuant to Section 36 of the Exchange Act[13] that it is necessary and appropriate in the public interest and is consistent with the protection of investors for the Commission to extend, through November 30, 2010, the relief provided from the clearing agency registration requirements of Section 17A by the 2009 ICE Clear Europe Order.

Our action today balances the aim of facilitating ICE Clear Europe's continued service as a CCP for non-excluded CDS transactions with ensuring that important elements of

Corporation ("Freddie Mac") or the Government National Mortgage Association ("Ginnie Mae"); or (ii) the reference index is an index in which 80 percent or more of the index's weighting is comprised of the entities or securities described in subparagraph (i). *See* definition in paragraph III.(e)(1) of this Order. As discussed above, the Commission's action today does not affect CDS that are swap agreements under Section 206A of the Gramm-Leach-Bliley Act. *See* text at note 4, *supra*.

[7] *See* Letter from Russell Sacks, Shearman & Sterling LLP, to Elizabeth M. Murphy, Secretary, Commission, April 23, 2010 ("April 2010 Request").

[8] *See id.* The exemptions we are granting today are based on all of the representations made on behalf of ICE Clear Europe, which incorporate representations made on behalf of ICE Clear Europe as part of the request that preceded our earlier exemptions addressing CDS clearing by ICE Clear Europe. We recognize, however, that there could be legal uncertainty in the event that one or more of the underlying representations were to become inaccurate. Accordingly, if any of these exemptions were to become unavailable by reason of an underlying representation no longer being materially accurate, the legal status of existing open positions in non-excluded CDS that previously had been cleared pursuant to the exemptions would remain unchanged, but no new positions could be established pursuant to the exemptions until all of the underlying representations were again accurate.

[9] *See* April 2010 Request, *supra* note 7.

[10] 15 U.S.C. 78q–1.

[11] *See* Securities Exchange Act Release No. 60372 (Jul. 23, 2009), 74 FR 37748 (Jul. 29, 2009).

[12] The RCCP was drafted by a joint task force ("Task Force") composed of representative members of IOSCO and CPSS and published in November 2004. The Task Force consisted of securities regulators and central bankers from 19 countries and the European Union. The U.S. representatives on the Task Force included staff from the Commission, the Federal Reserve Board, and the Commodity Futures Trading Commission.

[13] 15 U.S.C. 78mm. Section 36 of the Exchange Act authorizes the Commission to conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Exchange Act or any rule or regulation thereunder, by rule, regulation, or order, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.

Commission oversight are applied to the non-excluded CDS market. The temporary conditional exemptions will permit the Commission to continue to develop direct experience with the non-excluded CDS market. During the extended exemptive period, the Commission will continue to monitor closely the impact of the CCPs on the CDS market. In particular, the Commission will seek to assure itself that ICE Clear Europe does not act in an anticompetitive manner or indirectly facilitate anticompetitive behavior with respect to fees charged to members, and the dissemination of market data.

This temporary conditional extension of the 2009 ICE Clear Europe Order also is designed to assure that—as ICE Clear Europe has represented—information will continue to be available to market participants about the terms of the CDS cleared by ICE Clear Europe, the creditworthiness of ICE Clear Europe or any guarantor, and the clearance and settlement process for CDS.[14] The Commission believes continued operation of ICE Clear Europe consistent with the conditions of this Order will facilitate the availability to market participants of information that should enable them to make better informed investment decisions and better value and evaluate their Cleared CDS and counterparty exposures relative to a market for CDS that is not centrally cleared.

This temporary extension of the 2009 ICE Clear Europe Order is subject to a number of conditions that are designed to enable Commission staff to continue to monitor ICE Clear Europe's clearance and settlement of CDS transactions and help reduce risk in the CDS market. These conditions require that ICE Clear Europe: (i) Make available on its Web site its annual audited financial statements; (ii) preserve records related to the conduct of its Cleared CDS clearance and settlement services for at least five years (in an easily accessible place for the first two years); (iii) supply information relating to its Cleared CDS clearance and settlement services to the Commission and provide access to the Commission to conduct on-site inspections of facilities, records and personnel related to its Cleared CDS clearance and settlement services as may be reasonably requested by the Commission and provide access to the Commission to conduct on-site inspections of facilities, records, and personnel related to its Cleared CDS clearance and settlement services, subject to cooperation with the FSA and upon terms and conditions agreed between the FSA and the Commission; (iv) notify the Commission about material disciplinary actions taken against any of its members utilizing its Cleared CDS clearance and settlement services, and about the involuntary termination of the membership of an entity that is utilizing ICE Clear Europe's Cleared CDS clearance and settlement services; (v) notify the Commission not less than one day prior to effectiveness or implementation of changes to rules, procedures, and any other material events affecting its Cleared CDS clearance and settlement services, or, in exigent circumstances, as promptly as reasonably practicable under the circumstances; (vi) provide the Commission with reports prepared by independent audit personnel that are generated in accordance with risk assessment of the areas set forth in the Commission's Automation Review Policy Statements[15] and its annual audited financial statements prepared by independent audit personnel; and (vii) provide notice to the Commission regarding the suspension of services or inability to operate facilities in connection with Cleared CDS clearance and settlement services at the same time it provides notice to the FSA.

In addition, this temporary extension of the 2009 ICE Clear Europe Order is conditioned on ICE Clear Europe, directly or indirectly, making available to the public on terms that are fair and reasonable and not unreasonably discriminatory: (i) All end-of-day settlement prices and any other prices with respect to Cleared CDS that ICE Clear Europe may establish to calculate mark-to-market margin requirements for ICE Clear Europe Clearing Members; and (ii) any other pricing or valuation information with respect to Cleared CDS as is published or distributed by ICE Clear Europe.[16]

C. Extended Temporary Conditional Exemption From Exchange Registration Requirements

When we initially provided exemptions in connection with CDS clearing by ICE Clear Europe, we granted a temporary conditional exemption to ICE Clear Europe from the requirements of sections 5 and 6 of the Exchange Act, and the rules and regulations thereunder, in connection with ICE Clear Europe's calculation of mark-to-market prices for open positions in Cleared CDS. We also temporarily exempted ICE Clear Europe participants from the prohibitions of section 5 to the extent that they use ICE Clear Europe to effect or report any transaction in Cleared CDS in connection with ICE Clear Europe's calculation of mark-to-market prices for open positions in Cleared CDS. Section 5 of the Exchange Act contains certain restrictions relating to the registration of national securities exchanges,[17] while section 6 provides the procedures for registering as a national securities exchange.[18]

We granted these temporary exemptions to facilitate the establishment of ICE Clear Europe's end-of-day settlement price process. ICE Clear Europe had represented that in connection with its clearing and risk management process it would calculate an end-of-day settlement price for each Cleared CDS in which an ICE Clear Europe participant has a cleared position, based on prices submitted by the participants. As part of this mark-to-market process, ICE Clear Europe has periodically required its clearing members to execute certain CDS trades at the price at which certain quotations of the clearing members lock or cross. ICE Clear Europe represents that it continues to periodically require clearing members to execute certain CDS trades in this manner.

As discussed above, we have found in general that it is necessary or appropriate in the public interest, and is

[14] The Commission believes that it is important in the CDS market, as in the market for securities generally, that parties to transactions should have access to financial information that would allow them to evaluate appropriately the risks relating to a particular investment and make more informed investment decisions. *See generally* Policy Statement on Financial Market Developments, The President's Working Group on Financial Markets, March 13, 2008, available at: *http://www.treas.gov/press/releases/reports/pwgpolicystatemktturmoil_03122008.pdf.*

[15] *See* Automated Systems of Self-Regulatory Organizations, Exchange Act Release No. 27445 (November 16, 1989), File No. S7–29–89, and Automated Systems of Self-Regulatory Organizations (II), Exchange Act Release No. 29185 (May 9, 1991), File No. S7–12–91.

[16] As a CCP, ICE Clear Europe collects and processes information about CDS transactions, prices, and positions. Public availability of such information can improve fairness, efficiency, and competitiveness in the market. Moreover, with pricing and valuation information relating to Cleared CDS, market participants would be able to derive information about underlying securities and indices, potentially improving the efficiency and effectiveness of the securities markets.

[17] In particular, section 5 states:

It shall be unlawful for any broker, dealer, or exchange, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce for the purpose of using any facility of an exchange * * * to effect any transaction in a security, or to report any such transactions, unless such exchange (1) is registered as a national securities exchange under section 6 of [the Exchange Act], or (2) is exempted from such registration * * * by reason of the limited volume of transactions effected on such exchange * * * .

15 U.S.C. 78e.

[18] 15 U.S.C. 78f. Section 6 of the Exchange Act also sets forth various requirements to which a national securities exchange is subject.

consistent with the protection of investors, to facilitate continued CDS clearing by ICE Clear Europe. Consistent with that finding—and in reliance on ICE Europe's representation that the end-of-day settlement pricing process, including the periodically required trading, is integral to its risk management—we further find that it is necessary or appropriate in the public interest, and is consistent with the protection of investors that we exercise our authority under section 36 of the Exchange Act to extend, through November 30, 2010, ICE Clear Europe's temporary exemption from sections 5 and 6 of the Exchange Act in connection with its calculation of mark-to-market prices for open positions in Cleared CDS, and ICE Clear Europe's clearing members' temporary exemption from section 5 with respect to such trading activity.

The temporary exemption for ICE Clear Europe will continue to be subject to three conditions. First, ICE Clear Europe must report the following information with respect to its calculation of mark-to-market prices for Cleared CDS to the Commission within 30 days of the end of each quarter, and preserve such reports during the life of the enterprise and of any successor enterprise:

- The total dollar volume of transactions executed during the quarter, broken down by reference entity, security, or index; and
- The total unit volume and/or notional amount executed during the quarter, broken down by reference entity, security, or index.

Second, ICE Clear Europe must establish and maintain adequate safeguards and procedures to protect participants' confidential trading information. Such safeguards and procedures shall include: (a) Limiting access to the confidential trading information of participants to those employees of ICE Clear Europe who are operating the system or responsible for its compliance with this exemption or any other applicable rules; and (b) establishing and maintaining standards controlling employees of ICE Clear Europe trading for their own accounts. ICE Clear Europe must establish and maintain adequate oversight procedures to ensure that the safeguards and procedures established pursuant to this condition are followed.[19]

Third, ICE Clear Europe must comply with the conditions to the temporary exemption from Section 17A of the Exchange Act in this Order, given that this exemption is granted in the context of our goal of continuing to facilitate ICE Clear Europe's ability to act as a CCP for non-excluded CDS, and given ICE Clear Europe's representation that the end-of-day settlement pricing process, including the periodically required trading, will enhance the reliability of the submitted end-of-day prices.

The Commission also is continuing to temporarily exempt each ICE Clear Europe clearing member, through November 30, 2010, from the prohibition in Section 5 of the Exchange Act to the extent that such ICE Clear Europe clearing member uses any facility of ICE Clear Europe to effect any transaction in Cleared CDS, or to report any such transaction, in connection with ICE Clear Europe calculation of mark-to-market prices for open positions in Cleared CDS. Absent an exemption, section 5 would prohibit any ICE Clear Europe clearing member that is a broker or dealer from effecting transactions in Cleared CDS on ICE Clear Europe, which will rely on this Order for an exemption from exchange registration. The Commission believes that temporarily exempting ICE Clear Europe clearing members from the restriction in section 5 is necessary and appropriate in the public interest and is consistent with the protection of investors because it will facilitate their use of ICE Clear Europe's CCP for Cleared CDS, which for the reasons set forth in this Order the Commission believes to be beneficial. Without also temporarily exempting ICE Clear Europe clearing members from this section 5 requirement, the Commission's temporary exemption of ICE Clear Europe from sections 5 and 6 of the Exchange Act would be ineffective, because ICE Clear Europe clearing members that are brokers or dealers would not be permitted to effect transactions on ICE Clear Europe in connection with the end-of-day settlement price process.

D. Extended and Revised Temporary Conditional General Exemption for ICE Clear Europe and Certain Eligible Contract Participants

As we recognized when we initially provided temporary exemptions in connection with CDS clearing by ICE Clear Europe, applying the full panoply of Exchange Act requirements to participants in transactions in non-excluded CDS likely would deter some participants from using CCPs to clear CDS transactions. We also recognized that it is important that the antifraud provisions of the Exchange Act apply to transactions in non-excluded CDS, particularly given that OTC transactions subject to individual negotiation that qualify as security-based swap agreements already are subject to those provisions.[20]

As a result, we concluded that it is appropriate in the public interest and consistent with the protection of investors to apply temporarily substantially the same framework to transactions by market participants in non-excluded CDS that applies to transactions in security-based swap agreements. Consistent with that conclusion, we temporarily exempted ICE Clear Europe, and certain members and eligible contract participants, from a number of Exchange Act requirements, subject to certain conditions, while excluding certain enforcement-related and other provisions from the scope of the exemption.

We believe that continuing to facilitate the central clearing of CDS transactions by ICE Clear Europe through this type of temporary exemption will provide important risk management benefits and systemic benefits. Accordingly, pursuant to Section 36 of the Exchange Act, the Commission finds that it is necessary or appropriate in the public interest and is consistent with the protection of investors to exercise its authority to grant an exemption through November 30, 2010 from certain requirements under the Exchange Act.

As before, this temporary conditional exemption applies to ICE Clear Europe, any ICE Clear Europe Clearing

[19] We are making a technical modification to this condition to provide that ICE Clear Europe must "establish and maintain" the applicable safeguards and procedures (in lieu of the current exemption's use of terminology such as "adopt and implement") to reflect the fact that ICE Clear Europe already is relying on this settlement pricing process.

[20] While Section 3A of the Exchange Act excludes "swap agreements" from the definition of "security," certain antifraud and insider trading provisions under the Exchange Act explicitly apply to security-based swap agreements. *See* (a) paragraphs (2) through (5) of section 9(a), 15 U.S.C. 78i(a), prohibiting the manipulation of security prices; (b) section 10(b), 15 U.S.C. 78j(b), and underlying rules prohibiting fraud, manipulation or insider trading (but not prophylactic reporting or recordkeeping requirements); (c) section 15(c)(1), 15 U.S.C. 78o(c)(1), which prohibits brokers and dealers from using manipulative or deceptive devices; (d) sections 16(a) and (b), 15 U.S.C. 78p(a) and (b), which address disclosure by directors, officers and principal stockholders, and short-swing trading by those persons, and rules with respect to reporting requirements under Section 16(a); (e) section 20(d), 15 U.S.C. 78t(d), providing for antifraud liability in connection with certain derivative transactions; and (f) section 21A(a)(1), 15 U.S.C. 78u–1(a)(1), related to the Commission's authority to impose civil penalties for insider trading violations.

"Security-based swap agreement" is defined in Section 206B of the Gramm-Leach-Bliley Act as a swap agreement in which a material term is based on the price, yield, value, or volatility of any security or any group or index of securities, or any interest therein.

Member [21] which is not a broker or dealer registered under section 15(b) of the Exchange Act (other than paragraph (11) thereof), and any eligible contract participants [22] other than: Eligible contract participants that receive or hold funds or securities for the purpose of purchasing, selling, clearing, settling or holding Cleared CDS positions for other persons; [23] eligible contract participants that are self-regulatory organizations or eligible contract participants that are registered brokers or dealers.[24]

As before, under this temporary conditional exemption, and solely with respect to Cleared CDS, those persons generally are exempt from the provisions of the Exchange Act and the rules and regulations thereunder that do not apply to security-based swap agreements. Thus, those persons would still be subject to those Exchange Act requirements that explicitly are applicable in connection with security-based swap agreements.[25] In addition, all provisions of the Exchange Act related to the Commission's enforcement authority in connection with violations or potential violations of such provisions would remain applicable.[26] In this way, the temporary conditional exemption would apply the same Exchange Act requirements in connection with non-excluded CDS as apply in connection with OTC credit default swaps.

Consistent with the 2009 ICE Clear Europe Order, this temporary conditional exemption does not extend to: The exchange registration requirements of Exchange Act sections 5 and 6; [27] the clearing agency registration requirements of Exchange Act section 17A; the requirements of Exchange Act sections 12, 13, 14, 15(d), and 16; [28] the Commission's administrative proceeding authority under paragraphs (4) and (6) of Exchange Act section 15(b),[29] and the rules and regulations thereunder that apply to a broker or dealer that is not registered with the Commission; or certain provisions related to government securities.[30]

We are modifying this temporary conditional exemption by providing that ICE Clear Europe clearing members must be in material compliance with ICE Clear Europe rules to be eligible to take advantage of this exemption from Exchange Act requirements. This should promote compliance with the applicable CCP rules.

E. Extended Temporary General Exemption for Certain Registered Broker-Dealers

The 2009 ICE Clear Europe Order included a limited conditional exemption from Exchange Act requirements to registered broker-dealers in connection with their activities involving Cleared CDS. In crafting this temporary conditional exemption, we balanced the need to avoid creating disincentives to the prompt use of CCPs against the critical role that certain broker-dealers play in promoting market integrity and protecting customers (including broker-dealer customers that are not involved with CDS transactions).

In light of the risk management and systemic benefits in continuing to facilitate CDS clearing by ICE Clear Europe through targeted exemptions to registered broker-dealers, the Commission finds pursuant to Section 36 of the Exchange Act that it is necessary or appropriate in the public interest and is consistent with the protection of investors to exercise its authority to extend this temporary registered broker-dealer exemption from certain Exchange Act requirements through November 30, 2010.[31]

Consistent with the temporary exemptions discussed above, and solely with respect to Cleared CDS, we are temporarily exempting registered broker-dealers from provisions of the Exchange Act and the rules and regulations thereunder that do not apply to security-based swap agreements. As discussed above, we are not excluding registered broker-dealers from Exchange Act provisions that explicitly apply in connection with security-based swap agreements or from related enforcement authority provisions.[32] As above, and

[21] For purposes of this Order, an "ICE Clear Europe Clearing Member" means any clearing member of ICE Clear Europe that submits Cleared CDS to ICE Clear Europe for clearance and settlement exclusively (i) for its own account or (ii) for the account of an affiliate that controls, is controlled by, or is under common control with the clearing member of ICE Clear Europe. *See* definition in paragraph III.(e)(1) of this Order.

[22] This exemption in general applies to eligible contract participants, as defined in section 1a(12) of the Commodity Exchange Act as in effect on the date of this Order, other than persons that are eligible contract participants under paragraph (C) of that section.

[23] Solely for purposes of this requirement, an eligible contract participant would not be viewed as receiving or holding funds or securities for the purpose of purchasing, selling, clearing, settling, or holding Cleared CDS positions for other persons, if the other persons involved in the transaction would not be considered "customers" of the eligible contract participant under the analysis used for determining whether certain persons would be considered "customers" of a broker-dealer under Exchange Act Rule 15c3–3(a)(1). For these purposes, and for the purpose of the definition of "Cleared CDS," the terms "purchasing" and "selling" mean the execution, termination (prior to its scheduled maturity date), assignment, exchange, or similar transfer or conveyance of, or extinguishing the rights or obligations under, a Cleared CDS, as the context may require. This is consistent with the meaning of the terms "purchase" or "sale" under the Exchange Act in the context of security-based swap agreements. *See* Exchange Act Section 3A(b)(4).

[24] A separate temporary exemption addresses the Cleared CDS activities of registered broker-dealers. *See* Part II.E, *infra.* Solely for purposes of this Order, a registered broker-dealer, or a broker or dealer registered under Section 15(b) of the Exchange Act, does not refer to someone that would otherwise be required to register as a broker or dealer solely as a result of activities in Cleared CDS in compliance with this Order.

[25] *See* note 20, *infra.*

[26] Thus, for example, the Commission retains the ability to investigate potential violations and bring enforcement actions in the Federal courts as well as in administrative proceedings, and to seek the full panoply of remedies available in such cases.

[27] These are subject to a separate temporary class exemption. *See* note 1, *supra.* A national securities exchange that effects transactions in Cleared CDS would continue to be required to comply with all requirements under the Exchange Act applicable to such transactions. A national securities exchange could form subsidiaries or affiliates that operate exchanges exempt under that order. Any subsidiary or affiliate of a registered exchange could not integrate, or otherwise link, the exempt CDS exchange with the registered exchange including the premises or property of such exchange for effecting or reporting a transaction without being considered a "facility of the exchange." *See* Section 3(a)(2), 15 U.S.C. 78c(a)(2).

This Order also includes a separate temporary exemption from Sections 5 and 6 in connection with the mark-to-market process of ICE Clear Europe, discussed above, at note 17 and accompanying text.

[28] 15 U.S.C. 78*l,* 78m, 78n, 78o(d), 78p. Eligible contract participants and other persons instead should refer to the interim final temporary rules issued by the Commission. *See* note 1, *supra.*

[29] Exchange Act Sections 15(b)(4) and 15(b)(6), 15 U.S.C. 78o(b)(4) and (b)(6), grant the Commission authority to take action against broker-dealers and associated persons in certain situations.

[30] This exemption specifically does not extend to the Exchange Act provisions applicable to government securities, as set forth in Section 15C, 15 U.S.C. 78o–5, and its underlying rules and regulations. The exemption also does not extend to related definitions found at paragraphs (42) through (45) of Section 3(a), 15 U.S.C. 78c(a). The Commission does not have authority under Section 36 to issue exemptions in connection with those provisions. *See* Exchange Act Section 36(b), 15 U.S.C. 78mm(b).

[31] The temporary exemption addressed above with regard to ICE Clear Europe, certain clearing members and certain eligible contract participants are not available to persons that are registered as broker-dealers with the Commission (other than those that are notice registered pursuant to Exchange Act Section 15(b)(11)). Exchange Act Section 15(b)(11) provides for notice registration of certain persons that effect transactions in security futures products. 15 U.S.C. 78o(b)(11).

[32] *See* notes 20 and 26, *supra.* As noted above, broker-dealers also would be subject to Section 15(c)(1) of the Exchange Act, which prohibits brokers and dealers from using manipulative or deceptive devices, because that provision explicitly applies in connection with security-based swap agreements. In addition, to the extent the Exchange Act and any rule or regulation thereunder imposes any other requirement on a broker-dealer with respect to security-based swap agreements (e.g., requirements under Rule 17h-1T to maintain and preserve written policies, procedures, or systems concerning the broker or dealer's trading positions

for similar reasons, we are not exempting registered broker-dealers from: sections 5, 6, 12, 13, 14, 15(b)(4), 15(b)(6), 15(d), 16 and 17A of the Exchange Act.[33]

Further we are not exempting registered broker-dealers from the following additional provisions under the Exchange Act: (1) Section 7(c),[34] regarding the unlawful extension of credit by broker-dealers; (2) Section 15(c)(3),[35] regarding the use of unlawful or manipulative devices by broker-dealers; (3) Section 17(a),[36] regarding broker-dealer obligations to make, keep and furnish information; (4) Section 17(b),[37] regarding broker-dealer records subject to examination; (5) Regulation T,[38] a Federal Reserve Board regulation regarding extension of credit by broker-dealers; (6) Exchange Act Rule 15c3–1, regarding broker-dealer net capital; (7) Exchange Act Rule 15c3–3, regarding broker-dealer reserves and custody of securities; (8) Exchange Act Rules 17a–3 through 17a–5, regarding records to be made and preserved by broker-dealers and reports to be made by broker-dealers; and (9) Exchange Act Rule 17a–13, regarding quarterly security counts to be made by certain exchange members and broker-dealers.[39] Registered broker-dealers must comply with these provisions in connection with their activities involving non-excluded CDS because these provisions protect investors, provide safeguards with respect to the financial responsibility and related practices of broker-dealers, and safeguard against fraud and abuse.[40]

G. Solicitation of Comments

When we granted the 2009 ICE Clear Europe Order, we requested comment on all aspects of the exemptions. We received no comments in response. In connection with this Order extending the exemptions granted in connection with CDS clearing by ICE Clear Europe, we reiterate our request for comments on all aspects of the exemptions.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/other.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number S7–16–09 on the subject line; or
- Use the Federal eRulemaking Portal (*http://www.regulations.gov/*). Follow the instructions for submitting comments.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–16–09. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. We will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/other.shtml).* Comments are also available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

III. Conclusion

It is hereby ordered, pursuant to section 36(a) of the Exchange Act, that, through November 30, 2010:

(a) Exemption from section 17A of the Exchange Act.

ICE Clear Europe Limited ("ICE Clear Europe") shall be exempt from section 17A of the Exchange Act solely to perform the functions of a clearing agency for Cleared CDS (as defined in paragraph (e)(1) of this Order), subject to the following conditions:

(1) ICE Clear Europe shall make available on its Web site its annual audited financial statements.

(2) ICE Clear Europe shall keep and preserve at least one copy of all documents, including all correspondence, memoranda, papers, books, notices, accounts, and other such records as shall be made or received by it relating to its Cleared CDS clearance and settlement services. These records shall be kept for at least five years and for the first two years shall be held in an easily accessible place.

(3) ICE Clear Europe shall supply information and periodic reports relating to its Cleared CDS clearance and settlement services as may be reasonably requested by the Commission and, subject to cooperation with the FSA and upon such terms and conditions as may be agreed between the FSA and the Commission, shall provide access to the Commission to conduct on-site inspections of all facilities (including automated systems and systems environment), records, and personnel related to ICE Clear Europe's Cleared CDS clearance and settlement services.

(4) ICE Clear Europe shall notify the Commission, on a monthly basis, of any material disciplinary actions taken against any of its members using its Cleared CDS clearance and settlement services, including the denial of services, fines, or penalties. ICE Clear Europe shall notify the Commission promptly when ICE Clear Europe terminates on an involuntary basis the membership of an entity that is using ICE Clear Europe's Cleared CDS clearance and settlement services. Both notifications shall describe the facts and circumstances that led to the ICE Clear Europe's disciplinary action.

(5) ICE Clear Europe shall notify the Commission of all changes to its rules, procedures, and any other material events affecting its Cleared CDS clearance and settlement services, including its fee schedule and changes to risk management practices, not less than one day prior to effectiveness or implementation of such changes or, in exigent circumstances, as promptly as reasonably practicable under the circumstances. If ICE Clear Europe gives notice to, or seeks approval from, the FSA regarding any other changes to its rules regarding its Cleared CDS clearance and settlement services, ICE Clear Europe will also provide notice to the Commission. All such rule changes will be posted on ICE Clear Europe's Web site. Such notifications will not be deemed rule filings that require Commission approval.

(6) ICE Clear Europe shall provide the Commission with reports prepared by independent audit personnel concerning its Cleared CDS clearance and settlement services that are generated in accordance with risk assessment of the areas set forth in the Commission's Automation Review Policy Statements. ICE Clear Europe

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and risks, such as policies relating to restrictions or limitations on trading financial instruments or products), these requirements would continue to apply to broker-dealers' activities with respect to Cleared CDS.

[33] We also are not exempting those members from provisions related to government securities, as discussed above.

[34] 15 U.S.C. 78g(c).

[35] 15 U.S.C. 78o(c)(3).

[36] 15 U.S.C. 78q(a).

[37] 15 U.S.C. 78q(b).

[38] 12 CFR 220.1 *et seq.*

[39] Solely for purposes of this temporary exemption, in addition to the general requirements under the referenced Exchange Act sections, registered broker-dealers shall only be subject to the enumerated rules under the referenced Exchange Act sections.

[40] *See* 15 U.S.C. 78o(c)(3) (directing the Commission to establish minimum financial responsibility requirements for broker-dealers, including rules relating to the acceptance of custody, the use of customers' securities and the carrying and use of customers' deposits or credit balances).

shall provide the Commission with annual audited financial statements for ICE Clear Europe prepared by independent audit personnel.

(7) ICE Clear Europe shall notify the Commission at the same time it notifies the FSA in accordance with FSA REC 3.15 and FSA REC 3.16 regarding the suspension of services or inability to operate its facilities in connection with its Cleared CDS clearance and settlement services.

(8) ICE Clear Europe, directly or indirectly, shall make available to the public on terms that are fair and reasonable and not unreasonably discriminatory: (i) All end-of-day settlement prices and any other prices with respect to Cleared CDS that ICE Clear Europe may establish to calculate mark-to-market margin requirements for ICE Clear Europe Clearing Members; and (ii) any other pricing or valuation information with respect to Cleared CDS as is published or distributed by ICE Clear Europe.

(b) Exemption from Sections 5 and 6 of the Exchange Act

(1) ICE Clear Europe shall be exempt from the requirements of Sections 5 and 6 of the Exchange Act and the rules and regulations thereunder in connection with its calculation of mark-to-market prices for open positions in Cleared CDS, subject to the following conditions:

(i) ICE Clear Europe shall report the following information with respect to the calculation of mark-to-market prices for Cleared CDS to the Commission within 30 days of the end of each quarter, and preserve such reports during the life of the enterprise and of any successor enterprise:

(A) The total dollar volume of transactions executed during the quarter, broken down by reference entity, security, or index; and

(B) The total unit volume and/or notional amount executed during the quarter, broken down by reference entity, security, or index;

(ii) ICE Clear Europe shall establish and maintain adequate safeguards and procedures to protect members' confidential trading information. Such safeguards and procedures shall include: (A) limiting access to the confidential trading information of members to those employees of ICE Clear Europe who are operating the system or responsible for its compliance with this exemption or any other applicable rules; and (B) establishing and maintaining standards controlling employees of ICE Clear Europe trading for their own accounts. ICE Clear Europe must establish and maintain adequate oversight procedures to ensure that the safeguards and procedures established pursuant to this condition are followed; and

(iii) ICE Clear Europe shall satisfy the conditions of the temporary exemption from Section 17A of the Exchange Act set forth in paragraphs (a)(1)–(8) of this Order.

(2) Any ICE Clear Europe Clearing Member shall be exempt from the requirements of Section 5 of the Exchange Act to the extent such ICE Clear Europe Clearing Member uses any facility of ICE Clear Europe to effect any transaction in Cleared CDS, or to report any such transaction, in connection with ICE Clear Europe's clearance and risk management process for Cleared CDS.

(c) Exemption for ICE Clear Europe, ICE Clear Europe Clearing Members, and certain eligible contract participants.

(1) Persons eligible. The exemption in paragraph (c)(2) is available to:

(i) ICE Clear Europe;

(ii) Any ICE Clear Europe Clearing Member (as defined in paragraph (e)(2) of this Order), which is not a broker or dealer registered under Section 15(b) of the Exchange Act (other than paragraph (11) thereof); and

(iii) Any eligible contract participant (as defined in Section 1a(12) of the Commodity Exchange Act as in effect on the date of this Order (other than a person that is an eligible contract participant under paragraph (C) of that section)), other than: (A) An eligible contract participant that receives or holds funds or securities for the purpose of purchasing, selling, clearing, settling, or holding Cleared CDS positions for other persons; (B) an eligible contract participant that is a self-regulatory organization, as that term is defined in Section 3(a)(26) of the Exchange Act; or (C) a broker or dealer registered under Section 15(b) of the Exchange Act (other than paragraph (11) thereof).

(2) Scope of exemption.

(i) In general. Subject to the conditions specified in paragraph (c)(3) of this subsection, such persons generally shall, solely with respect to Cleared CDS, be exempt from the provisions of the Exchange Act and the rules and regulations thereunder that do not apply in connection with security-based swap agreements. Accordingly, under this exemption, those persons would remain subject to those Exchange Act requirements that explicitly are applicable in connection with security-based swap agreements (*i.e.,* paragraphs (2) through (5) of Section 9(a), Section 10(b), Section 15(c)(1), paragraphs (a) and (b) of Section 16, Section 20(d) and Section 21A(a)(1) and the rules thereunder that explicitly are applicable to security-based swap agreements). All provisions of the Exchange Act related to the Commission's enforcement authority in connection with violations or potential violations of such provisions also remain applicable.

(ii) Exclusions from exemption. The exemption in paragraph (c)(2)(i), however, does not extend to the following provisions under the Exchange Act:

(A) Paragraphs (42), (43), (44), and (45) of Section 3(a);

(B) Section 5;

(C) Section 6;

(D) Section 12 and the rules and regulations thereunder;

(E) Section 13 and the rules and regulations thereunder;

(F) Section 14 and the rules and regulations thereunder;

(G) Paragraphs (4) and (6) of Section 15(b);

(H) Section 15(d) and the rules and regulations thereunder;

(I) Section 15C and the rules and regulations thereunder;

(J) Section 16 and the rules and regulations thereunder; and

(K) Section 17A (other than as provided in paragraph (a)).

(3) Conditions for ICE Clear Europe Clearing Members. Any ICE Clear Europe Clearing Members relying on this exemption must be in material compliance with the rules of ICE Clear Europe.

(d) Exemption for certain registered broker-dealers.

A broker or dealer registered under Section 15(b) of the Exchange Act (other than paragraph (11) thereof) shall be exempt from the provisions of the Exchange Act and the rules and regulations thereunder specified in paragraph (c)(2), solely with respect to Cleared CDS, except:

(1) Section 7(c);

(2) Section 15(c)(3);

(3) Section 17(a);

(4) Section 17(b);

(5) Regulation T, 12 CFR 200.1 *et seq.;*

(6) Rule 15c3–1;

(7) Rule 15c3–3;

(8) Rule 17a–3;

(9) Rule 17a–4;

(10) Rule 17a–5; and

(11) Rule 17a–13.

(e) Definitions.

For purposes of this Order:

(1) "Cleared CDS" shall mean a credit default swap that is submitted (or offered, purchased, or sold on terms providing for submission) to ICE Clear Europe, that is offered only to, purchased only by, and sold only to eligible contract participants (as defined in Section 1a(12) of the Commodity

Exchange Act as in effect on the date of this Order (other than a person that is an eligible contract participant under paragraph (C) of that section)), and in which:

(i) The reference entity, the issuer of the reference security, or the reference security is one of the following:

(A) An entity reporting under the Exchange Act, providing Securities Act Rule 144A(d)(4) information, or about which financial information is otherwise publicly available;

(B) A foreign private issuer whose securities are listed outside the United States and that has its principal trading market outside the United States;

(C) A foreign sovereign debt security;

(D) An asset-backed security, as defined in Regulation AB, issued in a registered transaction with publicly available distribution reports; or

(E) An asset-backed security issued or guaranteed by Fannie Mae, Freddie Mac or Ginnie Mae; or

(ii) The reference index is an index in which 80 percent or more of the index's weighting is comprised of the entities or securities described in subparagraph (i).

(2) "ICE Clear Europe Clearing Member" shall mean any clearing member of ICE Clear Europe that submits Cleared CDS to ICE Clear Europe for clearance and settlement exclusively (i) for its own account or (ii) for the account of an affiliate that controls, is controlled by, or is under common control with the clearing member of ICE Clear Europe.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–9932 Filed 4–28–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61954; File No. SR–NYSEArca–2010–22]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to Listing of the Teucrium Corn Fund

April 21, 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 March 31, 2010, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the Teucrium Corn Fund under NYSE Arca Equities Rule 8.200. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Arca Equities Rule 8.200, Commentary .02 permits the trading of Trust Issued Receipts ("TIRs") either by listing or pursuant to unlisted trading privileges ("UTP").[3] The Exchange proposes to list and trade shares ("Shares") of the Teucrium Corn Fund ("Fund") pursuant to NYSE Arca Equities Rule 8.200.

The Exchange notes that the Commission has previously approved the listing and trading of other issues of Trust Issued Receipts on the American Stock Exchange LLC,[4] trading on NYSE Arca pursuant to unlisted trading privileges ("UTP"),[5] and listing on NYSE Arca.[6] In addition, the Commission has approved other exchange-traded fund-like products linked to the performance of underlying commodities.[7]

Overview of the Fund

The Shares represent beneficial ownership interests in the Fund, as described in the Registration Statement for the Fund.[8] The Fund is a commodity pool that is a series of the Teucrium Commodity Trust ("Trust"), a Delaware statutory trust. 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 ("CPO") with the Commodity Futures Trading Commission ("CFTC") and is a member of the National Futures Association.

According to the Registration Statement, 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"), specifically (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.[9] (This weighted average of the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Commentary .02 to NYSE Arca Equities Rule 8.200 applies to TIRs that invest in "Financial Instruments". The term "Financial Instruments," as defined in Commentary .02(b)(4) to NYSE Arca Equities Rule 8.200, means any combination of investments, including cash; securities; options on securities and indices; futures contracts; options on futures contracts; forward contracts; equity caps, collars and floors; and swap agreements.

[4] *See, e.g.,* Securities Exchange Act Release No. 58161 (July 15, 2008), 73 FR 42380 (July 21, 2008) (SR–Amex–2008–39).

[5] *See, e.g.,* Securities Exchange Act Release No. 58163 [sic] (July 15, 2008), 73 FR 42391 (July 21, 2008) (SR–NYSEArca–2008–73).

[6] *See, e.g.,* Securities Exchange Act Release No. 58457 (September 3, 2008), 73 FR 52711 (September 10, 2008) (SR–NYSEArca–2008–91).

[7] *See, e.g.,* Securities Exchange Act Release Nos. 57456 (March 7, 2008), 73 FR 13599 (March 13, 2008) (SR–NYSEArca–2007–91) (order granting accelerated approval for NYSE Arca listing the iShares GS Commodity Trusts); 59781 (April 17, 2009), 74 FR 18771 (April 24, 2009) (SR–NYSEArca–2009–28) (order granting accelerated approval for NYSE Arca listing the ETFS Silver Trust); 59895 (May 8, 2009), 74 FR 22993 (May 15, 2009) (SR–NYSEArca–2009–40) (order granting accelerated approval for NYSE Arca listing the ETFS Gold Trust); 61219 (December 22, 2009), 74 FR 68886 (December 29, 2009) (order approving listing on NYSE Arca of the ETFS Platinum Trust).

[8] *See* Amendment No. 3 to the Registration Statement on Form S–1 for Teucrium Commodity Trust, dated March 29, 2010 (File No. 333–162033) ("Registration Statement"). The discussion herein relating to the Trust and the Shares is based on the Registration Statement.

[9] Corn Futures Contracts traded on the 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

Continued

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.")[10]

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 the CBOT or on foreign exchanges. In addition, and to a limited extent, the Fund also may invest in corn-based swap agreements that are cleared through the 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, 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 U.S. Treasury securities held by the Fund into account, to closely track that of the Benchmark. The Sponsor expects to manage the Fund's investments directly, although it has been authorized by the Trust to retain, establish the terms of retention for, and terminate third-party commodity trading advisors to provide such management. The Sponsor is also authorized to select futures commission merchants to execute the Fund's transactions in Corn Futures Contracts.

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.

Consistent with achieving the Fund's investment objective of closely tracking the Benchmark, the Sponsor may for certain reasons cause the Fund to enter into or hold Corn Futures Contracts other than the Benchmark Component Futures Contracts, Cleared Corn Swaps and/or Other Corn Interests. Certain Cleared Corn Swaps have standardized terms similar to, and are priced by reference to, a corresponding Benchmark Component Futures Contract. Other Corn Interests that do not have standardized terms and are not exchange-traded, referred to as "over-the-counter" Corn Interests, can generally be structured as the parties to the Corn Interest contract desire. Therefore, the Fund could enter into multiple Cleared Corn Swaps and/or over-the-counter Corn Interests intended to exactly replicate the performance of each of the three Benchmark Component Futures Contracts, or a single over-the-counter Corn Interest designed to replicate the performance of the Benchmark as a whole. Assuming that there is no default by a counterparty to an over-the-counter Corn Interest, the performance of the Corn Interest will necessarily correlate exactly with the performance of the Benchmark or the applicable Benchmark Component Futures Contract.[11] The Fund could also enter into or hold Corn Interests other than Benchmark Component Futures Contracts to facilitate effective trading, consistent with the discussion of the Fund's "roll" strategy in the preceding paragraph. In addition, the Fund might also enter into or hold Corn Interests that would be expected to alleviate overall deviation between the Fund's performance and that of the Benchmark that may result from certain market and trading inefficiencies or other reasons.

The Fund invests 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.[12] 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 "Custodian").

The Sponsor endeavors 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.

According to the Registration Statement, the Sponsor believes that market arbitrage opportunities will

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.

[10] 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 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 the 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.

[11] According to the Registration Statement, the Fund faces the risk of non-performance by the counterparties to over-the-counter contracts. Unlike in futures contracts, the counterparty to these contracts is generally a single bank or other financial institution, rather than a clearing organization backed by a group of financial institutions. As a result, there will be greater counterparty credit risk in these transactions.

[12] 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.

cause the Fund's Share price on the NYSE Arca to closely track the Fund's NAV per share. The Sponsor believes that the net effect of this expected relationship and the expected relationship described above between the Fund's NAV and the Benchmark will be that the changes in the price of the Fund's Shares on the NYSE Arca will closely track, in percentage terms, changes in the Benchmark, less the Fund's expenses.

According to the Registration Statement, the Sponsor employs a "neutral" investment strategy intended to track the changes in the Benchmark regardless of whether the Benchmark goes up or goes down. The Fund's "neutral" investment strategy is designed to permit investors generally to purchase and sell the Fund's Shares for the purpose of investing indirectly in the corn market in a cost-effective manner. Such investors may include participants in the corn industry and other industries seeking to hedge the risk of losses in their corn-related transactions, as well as investors seeking exposure to the corn market.

The Fund creates and redeems Shares only in blocks of 100,000 Shares called Creation Baskets and Redemption Baskets, respectively. Only Authorized Purchasers may purchase or redeem Creation Baskets or Redemption Baskets.

All proceeds from the sale of Creation Baskets will be invested in the investments described in the Registration Statement no more than three business days after the initial Creation Basket is sold. Investments are held through the Fund's Custodian in accounts with the Fund's commodity futures brokers or in collateral accounts with respect to over-the-counter Corn Interests. There is no stated maximum time period for the Fund's operations and the Fund will continue until all Shares are redeemed or the Fund is liquidated pursuant to the terms of the Trust Agreement. In addition, the Custodian also serves as Administrator for the Fund, performing certain administrative and accounting services and preparing certain Commission and CFTC reports on behalf of the Fund.

The Sponsor does not currently intend to purchase and sell corn in the "spot market" for the Fund. In addition, the Sponsor does not currently intend that the Fund will enter into or hold spot month Corn Futures Contracts, except that spot month contracts that were formerly second-to-expire contracts may be held for a brief period until they can be disposed of in accordance with the Fund's roll strategy.

According to the Registration Statement, position limits and daily price fluctuation limits set by the CFTC and the futures exchanges have the potential to cause tracking error, which could cause the price of Shares to substantially vary from the Benchmark and prevent investors from being able to effectively use the Fund as a way to hedge against corn-related losses or as a way to indirectly invest in corn.

According to the Registration Statement, the CFTC and U.S. designated contract markets such as the 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 the 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 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 [13] under the Act, the Trust relies on the exception contained in Rule 10A–3(c)(7).[14] A minimum of 100,000 Shares will be outstanding as of the start of trading on the Exchange.

A more detailed description of Corn Interests and other aspects of the corn and Corn Interest markets, as well as investment risks, are set forth in the Registration Statement. All terms relating to the Fund that are referred to, but not defined in, this proposed rule change are defined in the Registration Statement.

Availability of Information Regarding the Shares

The Web site for the Fund (*http://www.teucriumcornfund.com*) and/or the Exchange, which are publicly accessible at no charge, will contain the following information: (a) The current NAV per share daily and the prior business day's NAV and the reported closing price; (b) the midpoint of the bid-ask price in relation to the NAV as of the time the NAV is calculated (the "Bid-Ask Price"); (c) calculation of the premium or discount of such price against such NAV; (d) the bid-ask price of Shares determined using the highest bid and lowest offer as of the time of calculation of the NAV; (e) data in chart form displaying the frequency distribution of discounts and premiums of the Bid-Ask Price against the NAV, within appropriate ranges for each of the four (4) previous calendar quarters; (f) the prospectus; and (g) other applicable quantitative information. The Fund will also disseminate Fund holdings on a daily basis on the Fund's Web site.

The 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. The Exchange also will disseminate on a daily basis via the Consolidated Tape Association ("CTA") information with respect to recent NAV, and shares outstanding. The Exchange will also make available on its Web site daily trading volume of each of the Shares, closing prices of such Shares, and the corresponding NAV. The closing price and settlement prices of the Corn Futures Contracts are also readily available from the CBOT, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. 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

[13] 17 CFR 240.10A–3.

[14] 17 CFR 240.10A–3(c)(7).

p.m. Eastern Time ("E.T."). Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA. In addition, the Exchange will provide a hyperlink on its Web site at *http://www.nyx.com* to the Fund's Web site at *http://www.teucriumcornfund.com,* which will display all intraday and closing Benchmark levels, the intraday Indicative Trust Value (*see* below), and NAV.

The daily settlement prices for the Corn Futures Contracts held by the Fund are publicly available on the Web site of the CBOT (*http://www.cmegroup.com*). In addition, various data vendors and news publications publish futures prices and data. The Exchange represents that quotation and last sale information for the Corn Futures Contracts are widely disseminated through a variety of major market data vendors worldwide, including Bloomberg and Reuters. In addition, the Exchange further represents that complete real-time data for the Corn Futures Contracts is available by subscription from Reuters and Bloomberg. The CBOT also provides delayed futures information on current and past trading sessions and market news free of charge on its Web site. The specific contract specifications for the futures contracts are also available at CBOT's Web site, as well as other financial informational sources. The spot price of corn also is available on a 24-hour basis from major market data vendors.

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 and the characteristics of such instruments and cash equivalents, and amount of cash held in the portfolio of the Fund. This 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 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.

Dissemination of Indicative Trust Value

In addition, in order to provide updated information relating to the Fund for use by investors and market professionals, an updated Indicative Trust Value ("ITV") will be calculated. The ITV is calculated by using the prior day's closing NAV per share of the Fund as a base and updating that value throughout the trading day to reflect changes in the value of the Benchmark Component Futures Contracts. As stated in the Registration Statement, changes in the value of over-the-counter Corn Interests, Treasury Securities and cash equivalents will not be included in the calculation of the ITV. The ITV disseminated during NYSE Arca trading hours should not be viewed as an actual real time update of the NAV, which is calculated only once a day.

The 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. The normal trading hours for Corn Futures Contracts on the 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 the CBOT when the Shares are traded on NYSE Arca after normal trading hours of Corn Futures Contracts on CBOT.

The Exchange believes that dissemination of the ITV provides additional information regarding the Fund that is not otherwise available to the public and is useful to professionals and investors in connection with the related Shares trading on the Exchange or the creation or redemption of such Shares.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. E.T. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. The minimum trading increment for Shares on the Exchange will be $0.01.

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 acting as registered Market Makers in Trust Issued Receipts to facilitate surveillance. See "Surveillance" below for more information.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the underlying futures contracts, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's "circuit breaker" rule [15] or by the halt or suspension of trading of the underlying futures contracts.

The Exchange represents that the Exchange may halt trading during the day in which the interruption to the dissemination of the 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, if the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

Surveillance

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products, including Trust Issued Receipts, to monitor trading in the Shares. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The Exchange's current trading surveillances focus on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations. The Exchange is able to obtain information regarding trading in the Shares, the physical commodities included in, or options, futures or options on futures on, Shares through ETP Holders, in connection with such ETP Holders' proprietary or customer trades which they effect on any relevant market. The Exchange can obtain market surveillance information, including customer identity information, with

[15] *See* NYSE Arca Equities Rule 7.12.

respect to transactions occurring on the CBOT in that CBOT is a member of the Intermarket Surveillance Group ("ISG"). A list of ISG members is available at *http://www.isgportal.org.*[16]

In addition, with respect to Fund assets traded on exchanges, not more than 10% of the weight of such assets in the aggregate shall consist of components whose principal trading market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

The Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) The risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated ITV will not be calculated or publicly disseminated; (2) the procedures for purchases and redemptions of Shares in Creation Baskets and Redemption Baskets (and that Shares are not individually redeemable); (3) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (4) how information regarding the ITV is disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. The Exchange notes that investors purchasing Shares directly from the Fund will receive a prospectus. ETP Holders purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Bulletin will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

In addition, the Information Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Bulletin will also reference that the CFTC has regulatory jurisdiction over the trading of Corn Futures Contracts traded on U.S. markets.

The Information Bulletin will also disclose the trading hours of the Shares of the Fund and that the NAV for the Shares is calculated after 4 p.m. E.T. each trading day. The Bulletin will disclose that information about the Shares of the Fund is publicly available on the Fund's Web site.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[17] in general, and furthers the objectives of Section 6(b)(5),[18] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that the proposed rule change will permit the listing of the Shares on the Exchange, to the benefit of investors and the marketplace. In addition, the listing and trading criteria set forth in NYSE Equities Rule 8.200 are intended to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2010–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2010–22. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions

[16] The Exchange notes that not all Corn Interests may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

should refer to File Number SR–NYSEArca–2010–22 and should be submitted on or before May 20, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–9875 Filed 4–28–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61960; File No. SR–BATS–2010–008]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of Proposed Rule Change To Amend BATS Rules 2.5 and 17.2 Applicable to Registration Requirements

April 22, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 9, 2010, BATS Exchange, Inc. (the "Exchange" or "BATS") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend BATS Rule 2.5, entitled "Restrictions," to require each Exchange Member to register with the Exchange: (i) At least two principals to supervise Authorized Traders of the Member (subject to certain exceptions), and (ii) at least one financial and operations principal. The Exchange also proposes a technical amendment to BATS Rule 17.2(g)(4) to eliminate language that becomes unnecessary due to the changes to BATS Rule 2.5.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.[3]

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 parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Exchange Rule 2.5 states that the Series 7 is required for registration with the Exchange as an Authorized Trader. The term "Authorized Trader" means "a person who may submit orders (or who supervises a routing engine that may automatically submit orders) to the Exchange's trading facilities on behalf of his or her Member or Sponsored Participant. Accordingly, all traders that participate in the routing of orders to the Exchange, including proprietary traders, are required to be registered with the Exchange and Series 7 qualified. Further, the term Authorized Trader includes a trader that submits orders, or supervises a routing engine that automatically submits orders, to either the Exchange's equities platform, options platform, or both.

The purpose of the proposed rule change is to expand the representative registration requirements applicable to each Member of the Exchange to ensure that Authorized Traders of Members are appropriately supervised and that the Exchange does not, through its rules, generate any gaps that permit a Member to operate differently than such Member would have to operate under the registration rules of other self-regulatory organizations. Specifically, the Exchange proposes to require each Member to register as representatives with the Exchange at least two Series 24 qualified Principals (subject to certain exceptions) to supervise such Member's Authorized Traders and one Series 27 qualified principal to supervise the financial and operational activities of such Member. The Exchange believes that the proposed rule change will help to make the Exchange's registration requirements more consistent with the registration requirements of other self-regulatory organizations. The Exchange understands that other self-regulatory organizations that do not require registered principals to supervise certain activities are currently undertaking a similar rulemaking effort.

The Exchange has proposed certain exceptions to the general requirements that a Member register two Series 24 qualified Principals and one Series 27 qualified Financial/Operations Principal. With respect to the two Principal requirement, the Exchange proposes to exempt any Member that meets the proposed definition of a "proprietary trading firm" and has 25 or fewer Authorized Traders. Such Members, defined as Limited Size Proprietary Firms for purposes of the proposed Interpretation and Policy, are only required to maintain one Series 24 registered Principal. In addition, under the proposed Rule the Exchange may waive the requirement to register two Series 24 qualified Principals if the Member can demonstrate that such waiver is warranted under the circumstances. The Exchange has proposed to define a proprietary trading firm as "a Member that trades its own capital, that does not have customers, and that is not a member of the Financial Industry Regulatory Authority."[4] In addition, as proposed, the Rule states that funds used by a proprietary trading firm must be exclusively firm funds, that all trading must be in the firm's accounts, and that traders must be owners of, employees of, or contractors to the firm. The Exchange has also proposed to exclude brokers or dealers from the definition of customer for purposes of the proprietary trading firm definition.[5] With respect to the Financial/Operations Principal requirement, the Exchange may waive the requirement to register a Series 27 qualified Financial/Operations Principal if such registration is not required by the Member's designated examining authority. Finally, any Member that conducts business on the Exchange as an Options Member is required by BATS Rules 17.1(b) and 17.2(g) to register an Options Principal with the Exchange who is responsible for that Member's options related activities on the Exchange. Accordingly, the proposed rule makes clear that a Member that solely conducts business on the Exchange as an Options Member is not also required to register Series 24 qualified Principals with the Exchange.

In addition to adopting the principal registration requirements described

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The text is attached as Attachment A to this filing.

[4] *See* proposed BATS Rule 2.5, Interpretation and Policy .01(g).

[5] *See* proposed BATS Rule 2.5, Interpretation and Policy .01(h).

above, the Exchange proposes modifications to Interpretation and Policy .02, which currently requires Authorized Traders to complete continuing education requirements similar to those required by other national securities exchanges. Due to the addition of the principal registration requirements described above and the recent addition of an Options Principal requirement, the Exchange proposes to modify its continuing education rule to make clear that all Authorized Traders, Principals, Financial/Operations Principals and Options Principals (collectively "Registered Representatives") are subject to continuing education requirements in order to maintain their registrations with the Exchange. Because the text would then become unnecessary, the Exchange also proposes to delete language from BATS Rule 17.2(g)(4) that currently makes clear that an Options Principal is subject to continuing education requirements.

Although the Exchange believes that most of its Members will be in position to quickly register Principals and Financial/Operations Principals with the Exchange due to the rules of other self-regulatory organizations to which such Members belong, it has proposed a compliance date of September 30, 2010. The Exchange believes that such date will provide its Members with adequate time to the extent additional personnel must pass qualification examinations in order for their Member firms to be compliant with the proposed Rules.

2. Statutory Basis

The rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[6] Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,[7] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest, by adopting rules requiring supervisory principals to pass qualification examinations and maintain their registrations in a manner consistent with the requirements of other self-regulatory organizations.

The proposed change is also consistent with Section 6(c)(3)(B) of the Act,[8] since under that section it is the Exchange's responsibility to prescribe standards of training, experience and competence for persons associated with Exchange Members. In addition, the Exchange has authority under Section 6(c)(3)(B) of the Act,[9] to bar a natural person from becoming a Member or person associated with a Member, if the person does not meet the standards of training, experience and competence as are prescribed in the rules of the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

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 No. SR–BATS–2010–008 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 No. SR–BATS–2010–008. 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 BATS. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BATS–2010–008 and should be submitted on or before May 20, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–9874 Filed 4–28–10; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(c)(3)(B).

[9] 15 U.S.C. 78f(c)(3)(B).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61948; File No. SR–FINRA–2010–019]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Implementation Period for SR–FINRA–2009–065

April 20, 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 April 14, 2010, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a "non-controversial" rule change under section 19(b)(3)(A) of the Act[3] and Rule 19b-4(f)(6) 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 Substance of the Proposed Rule Change

FINRA proposes to extend by 45 days the proposed implementation period for the rule changes approved in SR–FINRA–2009–065.[5]

The proposed rule change would not make any new changes to the text of FINRA rules.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA 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

On October 1, 2009, FINRA filed SR–FINRA–2009–065, a proposed rule change to expand the Trade Reporting and Compliance Engine ("TRACE") to designate asset-backed securities, mortgage-backed securities and other similar securities (collectively, "Asset-Backed Securities") as eligible for TRACE, and to establish reporting, fee and other requirements for such securities. In SR–FINRA–2009–065, FINRA stated that it would announce the effective date of the proposed rule change in a *Regulatory Notice* to be published "no later than 60 days following Commission approval" and to establish the effective date "no later than 270 days following publication" of the *Regulatory Notice* announcing the Commission's approval.

The proposed rule change was published for notice and comment.[6] FINRA filed its response to comments on December 22, 2009,[7] and Amendment No. 1 to SR–FINRA–2009–065 on January 19, 2010 (hereinafter, SR–FINRA–2009–065 and Amendment No. 1 thereto are, collectively, the "TRACE ABS filing").[8] The Commission approved the TRACE ABS filing on February 22, 2010.[9]

As represented in the TRACE ABS filing, FINRA will publish a *Regulatory Notice* no later than April 23, 2010, the 60th day following Commission approval of the TRACE ABS filing. However, in this proposed rule change, FINRA proposes to extend by 45 days the period in which to establish the effective date of the TRACE ABS filing. Specifically, the effective date of the TRACE ABS filing will be no later than 315 days, rather than 270 days, following publication of the *Regulatory Notice* announcing Commission approval of the filing.

FINRA recognizes that Asset-Backed Securities are complex instruments, and that, in preparing for the accurate reporting of transactions in Asset-Backed Securities, firms must make operational changes, including significant changes to their systems, and modifications to a variety of compliance and supervisory processes and procedures. Staffing and training also may be implicated. System changes are also being made by FINRA to the TRACE System and by vendors and other service providers. In view of the changes that must be implemented, FINRA believes it is appropriate to extend for up to 45 days the date on which the TRACE ABS filing may become effective.

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, such that FINRA can implement the proposed rule change immediately.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[10] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the flexibility to establish an effective date up to 45 days later than is currently provided by SR–FINRA–2009–065 to implement the reporting of transactions in Asset-Backed Securities will allow firms sufficient time to make necessary systems changes for the timely and accurate reporting of such transactions, creating a more accurate audit trail and enhancing FINRA's surveillance of the market in Asset-Backed Securities for the protection of investors and in furtherance of the public interest.

[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)(6).

[5] *See* Securities Exchange Act Release No. 61566 (February 22, 2010), 75 FR 9262 (March 1, 2010) (Order Approving File No. SR–FINRA–2009–065) (hereinafter, "SEC Order Approving TRACE Expansion—Asset-Backed Securities").

[6] *See* Securities Exchange Act Release No. 60860 (October 21, 2009), 74 FR 55600 (October 28, 2009) (Notice of Filing of File No. SR–FINRA–2009–065).

[7] *See* Letter from Sharon Zackula, Associate Vice President and Associate General Counsel, FINRA, to Elizabeth M. Murphy, Secretary, Commission, dated December 22, 2009.

[8] The TRACE ABS filing included amendments to: (a) Rule 6710 to amend the defined terms, "Asset-Backed Security" and "TRACE–Eligible Security" to include Asset-Backed Securities as TRACE–Eligible Securities, to amend several other defined terms, and to add several new defined terms, most of which relate to Asset-Backed Securities; (b) Rule 6730 to require the reporting of Asset-Backed Securities transactions, to establish a six-month pilot period for reporting such transactions no later than T + 1 during TRACE System hours, and to amend certain requirements in connection with the reporting of commissions, factors, transaction size and settlement terms in Asset-Backed Securities transactions; (c) Rule 6750 to provide that information on a transaction in a TRACE–Eligible Security that is an Asset-Backed Security will not be disseminated; (d) Rule 6760 to amend the notification requirements; (e) Rule 7730 to establish fees for reporting transactions in Asset-Backed Securities; and (f) the Rule 6700 Series and Rule 7730 to incorporate certain other technical, administrative and clarifying changes.

[9] *See* SEC Order Approving TRACE Expansion—Asset-Backed Securities.

[10] 15 U.S.C. 78*o*–3(b)(6).

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange represented that the proposed rule change qualifies for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Exchange Act[11] and Rule 19b–4(f)(6) thereunder[12] because it: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.[13] The Exchange has requested that the Commission waive the 30-day operative delay, so that the proposed rule change may become operative upon filing. The Commission hereby grants the Exchange's request.[14] The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it appears reasonably designed to allow firms sufficient time to make necessary systems and operational changes to facilitate the timely and accurate reporting of Asset-Backed Securities transactions as required by the TRACE ABS filing.

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–FINRA–2010–019 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–FINRA–2010–019. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2010–019 and should be submitted on or before May 20, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–9873 Filed 4–28–10; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA has satisfied this requirement.

[14] For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61952; File No. SR–NYSE–2010–32]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Immediate Release Policy To Remove the Address Contact Information

April 21, 2010.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Exchange Act"),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 9, 2010, New York Stock Exchange LLC (the "NYSE" or the "Exchange") filed with the Securities and Exchange Commission the proposed rule changes as described in Items I and II below, which items have been prepared by the Exchange. The Exchange has designated this proposal eligible for immediate effectiveness pursuant to Rule 19b–4(f)(6)[4] under the Exchange Act. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section 202.06 of the Listed Company Manual (the "Manual") to remove the contact information provided in that rule for national news wire services.

The text of the proposed rule change is available on the Exchange's Web site (*http://www.nyse.com*), at the Exchange's Office of the Secretary, 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 self-regulatory organization included

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 17 CFR 240.19b–4(f)(6).

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 NYSE 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

Section 202.06 of the Manual sets forth the permissible procedures for the dissemination by listed companies of material news as required by Section 202.05. Section 202.06 permits the dissemination of material news by means of any Regulation FD compliant method (or methods). However, the Exchange encourages companies to disseminate material news by issuing press releases through the national news wire services, including Associated Press, Bloomberg Business News, Dow Jones & Company, Inc., Reuters America and United Press International. As a convenience, the Exchange has included in Section 202.06(c)[5] [sic] contact information for these national news wire services. It has come to the Exchange's attention that some of this information provided in the rule is no longer accurate. Consequently, the Exchange proposes to delete this contact information from Section 202.06. This contact information is provided for information purposes only and does not constitute a substantive part of the rule, so the Exchange believes it is appropriate to delete it rather than submit a rule filing every time it becomes aware that the information for one of the news services becomes inaccurate. Moreover, contact information for the news services can be readily located by listed companies by other means, so its inclusion in Section 202.06(c) [sic] is not essential. The Exchange would be happy to assist any company in obtaining this information if the company experiences difficulty in locating it itself.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[6] of the Exchange Act, in general, and furthers the objectives of Section 6(b)(5) of the Exchange Act[7] in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed amendment is consistent with the public interest in that it does not change in any way the substantive obligations of listed companies under Section 202.06.

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 Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[10] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay.

The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposed rule change would merely delete inaccurate and, as such, potentially confusing contact information from Section 202.06. This information was provided by the Exchange for information purposes only, does not constitute a substantive part of the rule, and can be easily located by listed companies by other means. Additionally, deletion of the language from Section 202.06(C) does not change in any way the substantive obligations of listed companies. As such, the Commission believes that the proposed rule change raises no new regulatory issues. For these reasons, the Commission designates that the proposed rule change become operative immediately upon filing.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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 No. SR–NYSE–2010–32 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 No. SR–NYSE–2010–32. This file number should be included on the subject line if e-mail is used. To help the

[5] The Commission notes that the correct cite is Section 202.06(C).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). Pursuant to Rule 19b–4(f)(6)(iii) under the Act, the Exchange is required to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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 NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSE–2010–32 and should be submitted on or before May 20, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–9872 Filed 4–28–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61958; File No. SR–OCC–2010–03]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to ETFS Palladium Shares and ETFS Platinum Shares

April 22, 2010.

I. Introduction

On March 1, 2010, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder[2] to add ETFS Palladium Shares and ETFS Platinum Shares to the interpretation following the definition of "fund share" in Article I, Section 1 of OCC's By-Laws. The proposed rule change was published for comment in the **Federal Register** on March 18, 2010.[3] No comment letters were received on the proposal. This order approves the proposal.

II. Description of the Proposal

The proposed rule change will add ETFS Palladium Shares and ETFS Platinum Shares to the interpretation following the definition of "fund share" in Article I, Section 1 of OCC's By-Laws. The purpose of this rule change is to remove any potential cloud on the jurisdictional status of options or security futures on ETFS Palladium Shares or ETFS Platinum Shares.[4]

Under the current proposed rule change, OCC will (i) clear and treat as securities options any option contracts on ETFS Palladium Shares and ETFS Platinum Shares that are traded on securities exchanges and (ii) clear and treat as security futures any futures contracts on ETFS Palladium Shares and ETFS Platinum Shares.

In addition, in its capacity as a "derivatives clearing organization" registered with the Commodity Futures Trading Commission ("CFTC"), OCC also filed this proposal for prior approval by the CFTC pursuant to provisions of the Commodity Exchange Act ("CEA") in order to foreclose any potential liability under the CEA based on an argument that the clearing by OCC of such options as securities options or the clearing of such futures as security futures constitutes a violation of the CEA.

The products that are affected by this approval order are essentially the same as the options and security futures on SPDR Gold Shares, iShares COMEX Gold Shares, iShares Silver Shares, ETFS Physical Swiss Gold Shares, and ETFS Physical Silver Shares that OCC currently clears pursuant to rule changes approved by the Commission.[5]

III. Discussion

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and derivative transactions.[6] By amending its By-Laws to help clarify that options on ETFS Palladium Shares and ETFS Platinum Shares that are traded on securities exchanges will be treated and cleared as securities options and that futures on ETFS Palladium and ETFS Platinum shares will be treated as security futures, OCC's rule change should help clarify the jurisdictional status of such contracts and accordingly should help to promote the prompt and accurate clearance and settlement of securities transactions and of derivative transactions. In accordance with the Memorandum of Understanding entered into between the CFTC and the Commission on March 11, 2008, and in particular the addendum thereto concerning Principles Governing the Review of Novel Derivative Products, the Commission believes that novel derivative products that implicate areas of overlapping regulatory concern should be permitted to trade in either a CFTC or Commission-regulated environment or both in a manner consistent with laws and regulations (including the appropriate use of all available exemptive and interpretive authority).

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act[7] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (File No. SR–OCC–2010–03) be and hereby is approved.[9]

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–9940 Filed 4–28–10; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 61254 (Mar. 11, 2010), 75 FR 13169.

[4] The Commission recently approved a related rule change by the Chicago Board Options Exchange to enable the listing and trading of options on the EFTS Palladium Trust and the EFTS Platinum Trust. Securities Exchange Act Release No. 61892 (Apr. 13, 2010), 75 FR 20649.

[5] Securities Exchange Act Release Nos. 57895 (May 30, 2008), 73 FR 32066 (June 5, 2008); 59054 (Dec. 4, 2008), 73 FR 75159 (Dec. 10, 2008); 61591 (Feb. 25, 2010), 75 FR 9981 (Mar. 4, 2010).

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78q–1.

[8] 15 U.S.C. 78s(b)(2).

[9] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[10] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 6971]

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 will convene another 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 Friday, May 14, 2010 from 10 a.m. to 12:30 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 UNCITRAL Third International Colloquium on Secured Transactions held March 1–3, 2010 in Vienna discussed possible future work in the area of secured transactions and, in particular, further work after the completion of the supplement to the Guide. A variety of topics were discussed in the colloquium, including possible future work on a contractual guide on intellectual property licensing. UNCITRAL will also consider this issue at its annual session. Please follow the link below for papers presented at the colloquium. *http://www.uncitral.org/uncitral/en/commission/colloquia/3rdint.html*.

The report of the colloquium is not yet available.

Time and Place: The meeting will take place on Friday, May 14, 2010 from 10 a.m. to 12:30 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 May 12th. 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: April 23, 2010.

Michael J. Dennis,

Attorney-Adviser, Office of Private International Law, Office of the Legal Advisor, U.S. Department of State.

[FR Doc. 2010–10021 Filed 4–28–10; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Airborne Area Navigation Equipment Using Loran-C Inputs

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of cancellation of: (1) Loran-C navigation system Technical Standard Orders (TSO); and (2) the revocation of Loran-C navigation system TSO Authorizations (TSOA), and request for public comment.

SUMMARY: This notice announces the cancellation of Technical Standard Order (TSO) C–60, Airborne Area Navigation Equipment Using Loran-C inputs and all subsequent revisions. The effect of the cancelled TSOs will result in the revocation of all Technical Standard Order Authorizations issued for the production of those navigational systems. These actions are necessary because the Loran-C Navigation System ceased operation on February 8, 2010.

DATES: Comments must be received on or before June 1, 2010.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Bridges, AIR–130, Federal Aviation Administration, 470 L'Enfant Plaza, Suite 4102, Washington, DC 20024. Telephone (202) 385–4627, fax (202) 385–4651, e-mail to: *kevin.bridges@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

You are invited to comment on the cancellation of the TSO and the revocation of the associated TSOAs by submitting written data, views, or arguments to the above address. Comments received may be examined, both before and after the closing date, at the above address, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. The Director, Aircraft Certification Service, will consider all comments received on or before the closing date.

Background

The Loran-C navigation system ceased transmitting usable signals on February 8, 2010. Because the Loran-C system ceased operation, the FAA intends to cancel all Loran-C Technical Standard Orders and revoke all associated Technical Standard Order Authorizations (TSOA).

The FAA database contains one (1) specific TSO requiring the Loran-C system as a means of navigation, and numerous TSOAs issued for the design and manufacture of Loran-C avionics equipment. This announcement serves as notice to all Loran-C TSOA holders that the FAA intends to cancel all TSOs (including active historical TSOs) and revoke all TSOAs for Loran-C avionics equipment.

Issued in Washington, DC.

Susan J.M. Cabler,

Assistant Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 2010–9947 Filed 4–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Moynihan Station Development Project

AGENCY: Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

ACTION: Notice of availability of and public comment period for the Moynihan Station Development Project Environmental Assessment.

SUMMARY: The Federal Railroad Administration announces the availability of the Moynihan Station

Development Project (Project) Environmental Assessment (EA) for public review and comment. The EA was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 4321 *et seq.,* the Council on Environmental Quality NEPA implementing regulations, 40 CFR parts 1500–1508, and the FRA NEPA procedures, 64 FR 28545 (May 26, 1999). FRA is the lead Federal agency and the New York State Urban Development Corporation d/b/a the Empire State Development Corporation (ESDC) is the lead State agency.

ESDC, its subsidiary Moynihan Station Development Corporation (MSDC), and the Port Authority of New York and New Jersey (PANYNJ) have proposed to redevelop the James A. Farley Building and its Western Annex into a new intermodal transportation facility, to be called the Daniel Patrick Moynihan Station (Moynihan Station). Moynihan Station would be one component of the Project that would also include the commercial redevelopment of the Western Annex and the construction of a 1.1 million square foot mixed-use building fronting on the east side of Eight Avenue between West 33rd and West 34th Streets utilizing development rights associated with the Farley Complex.

DATES: FRA invites interested Members of Congress, state and local governments, other Federal agencies, Native American tribal governments, organizations, and members of the public to provide comments on the EA, which is available at *http://www.empire.state.ny.us/Subsidiaries_Projects/MSDC/MSDC.html* or by request from MSDC at the address listed below under For Further Information. The 30-day public comment period begins on April 28, 2010 and ends on May 28, 2010. FRA and ESDC will consider all comments received or postmarked by that date in preparing the Final EA. Comments received or postmarked after that date will be considered to the extent practicable.

On April 28, 2010, ESDC and MSDC, in accordance with the New York State Urban Development Corporation Act (UDC Act), will be holding a public hearing to consider the proposed draft March 2010 Phase 1 Amended General Project Plan. The hearing will be held at the James A. Farley Post Office Building, located at 380 West 33rd Street, Room 4500, New York, New York, 10199 from 4 p.m. to 8 p.m. Although FRA and ESDC will not be presenting the EA at this hearing and oral comments on the EA will not be accepted, it is an opportunity for interested parties to learn more about the Project.

ADDRESSES: Comments may be submitted in writing. Written comments may be submitted to ESDC and MSDC at 633 Third Avenue, New York, New York 10017, attention: Rebecca Pellegrini. Written comments will also be accepted at the April 28th public hearing.

FOR FURTHER INFORMATION CONTACT: For further information regarding the EA or the Project, please contact: Ms. Rebecca Pellegrini, Moynihan Station Development Corporation, 633 Third Avenue, New York, New York; or by e-mail at *rpellegrini@empire.state.ny.us* with "Moynihan Station Development Project" in the subject heading, or Mr. John Winkle, Transportation Industry Analyst, Office of Passenger Programs, Federal Railroad Administration, 1200 New Jersey Ave., SE., Room W38–311, Washington, DC 20590 (telephone 202 493–6067), or by e-mail at *John.Winkle@DOT.Gov* with "Moynihan Station Development Project" in the subject heading.

SUPPLEMENTARY INFORMATION:

I. *Description of Project.* The approximately 1.3 million square foot Farley Complex occupies a "superblock" from West 31st to West 33rd Streets and from Eighth Avenue to Ninth Avenue. Built over the Pennsylvania Station (Penn Station) rail facilities, including the westernmost portion of most of the passenger platforms and other rail yard facilities, the Farley Complex is integrated into the larger Penn Station Complex.

Penn Station is the busiest transportation facility in the United States, accommodating over 530,000 daily passengers, including intercity passengers riding Amtrak, local commuter rail passengers, and subway riders. It is, however, plagued with design problems. As a result, it is difficult to navigate and has passenger facilities that do not meet current industry standards related to safe egress times and universal accessibility. The station, already operating above its design capacity, is projected to experience a growing passenger load as development continues in the surrounding neighborhoods.

To address the larger issue of inadequate capacity at Penn Station, ESDC, MSDC and FRA have proposed a program of improvements at the Farley Building that will relocate Amtrak's intercity passenger rail operations to a new Moynihan Station to be constructed within the eastern portion of the Farley Building. This work will significantly improve access to, and egress from, the platforms and the connections between Penn Station, the Farley Building, and the existing New York City subway lines.

The project as currently envisioned will take place in two phases. Phase 1 work, which is primarily below street level, will consist of expanding and extending the existing West End Concourse so that it spans all existing tracks (with new access to Eighth Avenue), expanding the existing 33rd Street Connector, adding several platform ventilation elements, and adding several entrances to the new Moynihan Station. Phase 2 will consist of development of the Station itself, including the Train Hall, concourse and street-level portions of the Station, reactivation of currently-unused Platform 12 for passenger use, and the non-Station commercial development of the Farley Complex.

II. *Previous Environmental Reviews.* The development of plans for improved New York City passenger facilities has been underway since as early as 1991 when Amtrak began planning for a new intermodal transportation facility. The potential availability of the Farley Complex led to additional efforts to devise plans that incorporated passenger rail facilities in the Farley Complex. A series of environmental reviews have accompanied the various proposals for improvements to the Penn Station facilities and site, including most recently the final Environmental Impact Statement (EIS) that was issued by ESDC under SEQRA in August 2006. That EIS evaluated the impacts of a larger project that included relocating Madison Square Garden to the Farley Building and renovating Penn Station itself. Those elements have subsequently been dropped and this EA addresses the Project as currently defined.

Issued in Washington, DC, on April 23, 2010.

Mark E. Yachmetz,

Associate Administrator for Railroad Development.

[FR Doc. 2010–9843 Filed 4–28–10; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In March 2010, there were three applications approved. This notice also includes information on six applications, one approved in November 2008, one approved in June 2009, one approved in September 2009, one approved in October 2009, one approved in December 2009, and the last approved in February 2010, inadvertently left off the November 2008, June 2009, September 2009, October 2009, December 2009 and February 2010 notices, respectively. Additionally, 10 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Virgin Islands Port Authority, St. Thomas, U.S. Virgin Islands.

Application Number: 09–04–C–00–STX.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $506,898.

Charge Effective Date: December 1, 1996.

Charge Expiration Date: July 1, 2003.

Class of Air Carriers Not Required to Collect PFC'S: None.

Brief Description of Project Approved for Collection and Use:

Reconfigure and redesign passenger areas and bag claim.

Decision Date: November 21, 2008.

FOR FURTHER INFORMATION CONTACT: Susan Moore, Orlando Airports District Office, (407) 812–6331.

Public Agency: City of Des Moines, Iowa.

Application Number: 09–12–C–00–DSM.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $3,345,318.

Earliest Charge Effective Date: January 1, 2018.

Estimated Charge Expiration Date: October 1, 2019.

Class of Air Carriers Not Required To Collect PFC'S: Air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Des Moines International Airport.

Brief Description of Project Approved for Collection and Use:

Runway 13R/31L—construction.

Decision Date: June 15, 2009.

FOR FURTHER INFORMATION CONTACT: Nicoletta Oliver, Central Region Airports Division, (816) 329–2642.

Public Agency: City of Rochester, Minnesota.

Application Number: 09–05–C–00–RST.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $2,549,524.

Earliest Charge Effective Date: January 1, 2011.

Estimated Charge Expiration Date: April 1, 2015.

Class of Air Carriers Not Required To Collect PFC'S: Air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Rochester International Airport.

Brief Description of Projects Approved for Collection and Use:

Security fence and upgrades.
Snow removal equipment building expansion.
Security screening expansion.
Terminal restroom design.
Terminal restroom remodel.
Terminal elevator upgrades.
Terminal flight information displays.
General aviation apron rehabilitation.
Aircraft rescue and firefighting equipment.
Jet passenger loading bridge.
PFC consultation.
Passenger terminal remodeling.
Pavement management system.
Master plan, phase 1.

Decision Date: September 23, 2009.

FOR FURTHER INFORMATION CONTACT: Nancy Nistler, Minneapolis Airports District Office, (612) 713–4353.

Public Agency: Burbank-Glendale-Pasadena Airport Authority, Burbank, California.

Application Number: 09–10–C–00–BUR.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $951,400.

Earliest Charge Effective Date: January 1, 2015.

Estimated Charge Expiration Date: December 1, 2015.

Class of Air Carriers Not Required To Collect PFC'S: Non-scheduled/on-demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Bob Hope Airport.

Brief Description of Projects Approved for Collection and Use at a $4.50 PFC Level:

Precision approach path indicator.
Runway incursion guard lights.

Brief Description of Project Approved for Use:

Terminal ramp renovations.

Decision Date: October 9, 2009.

FOR FURTHER INFORMATION CONTACT: Darlene Williams, Los Angeles Airports District Office, (310) 725–3625.

Public Agency: Niagara Frontier Transportation Authority, Buffalo, New York.

Application Number: 09–07–C–00–BUF.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $15,370,095.

Earliest Charge Effective Date: November 1, 2012.

Estimated Charge Expiration Date: March 1, 2014.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Buffalo Niagara International Airport (BUF).

Brief Description of Projects Approved for Collection at BUF and Use at BUF at a $4.50 PFC Level:

Construction of concourse expansion and modifications, passenger terminal.
Rehabilitation of taxilane K–1.
Design and implement noise mitigation measures.

Brief Description of Project Approved for Collection at BUF and Future Use at BUF at a $4.50 PFC Level:

Realign taxiway M to air cargo ramp and construct new taxiway N.

Brief Description of Project Approved for Collection at BUF and Use at BUF at a $3.00 PFC Level:

Purchase of passenger movement equipment (shuttle buses).

Brief Description of Project Partially Approved for Collection At BUF and Use at BUF at a $4.50 PFC Level:

Purchase aircraft rescue and firefighting safety equipment.

Determination: Partially approved for collection and use. The information provided by the public agency regarding two of the vehicles, a mini-pumper truck and a rescue/crash—snozzle truck, was insufficient to allow the FAA to determine eligibility. Therefore, the only vehicles approved in this project were the mobile command vehicles.

Brief Description of Project Partially Approved for Collection at BUF and Use at BUF at a $3.00 PFC Level:

Purchase of security equipment.

Determination: Partially approved for collection and use. The public agency included two work elements in this project, acquisition of vehicles and acquisition of radio and computer equipment. The radio and computer equipment was determined to be expendable items used to upgrade the base vehicle and, as such, was determined to be ineligible for PFC funding.

Brief Description of Projects Approved for Collection at BUF and Use at BUF and at Niagara Falls International Airport at a $3.00 PFC Level:

Purchase snow removal equipment.
PFC programming and administration.

Decision Date: December 17, 2009.

FOR FURTHER INFORMATION CONTACT: Andrew Brooks, New York Airports District Office, (516) 227–3816.

Public Agency: Golden Triangle Regional Airport Authority, Columbus, Mississippi.

Application Number: 10–07–C–00–GTR.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $355,000.

Earliest Charge Effective Date: October 1, 2016.

Estimated Charge Expiration Date: October 1, 2018.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Terminal renovation.
Runway extension.
Aircraft rescue and firefighting equipment.
Security equipment.

Decision Date: February 24, 2010.

FOR FURTHER INFORMATION CONTACT: Kevin Morgan, Jackson Airports District Office, (601) 664–9891.

Public Agency: City of Atlanta, Georgia.

Application Number: 10–11–C–00–ATL.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

TOTAL PFC REVENUE APPROVED IN THIS DECISION: $422,480,178.

Earliest Charge Effective Date: June 1, 2020.

Estimated Charge Expiration Date: January 1, 2023.

Class of Air Carriers Not Required to Collect PFC'S: Nonscheduled/on-demand air carriers (air taxi! commercial operators).

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Hartsfield-Jackson Atlanta International Airport.

Brief Description of Projects Approved for Collection and Use at a $4.50 PFC Level:

Noise mitigation program.
Terminal capacity enhancement.
Taxiways SC and SJ extensions.
Closed circuit television phase 3.
Elevated walkways.
Airport inbound roadway replacement/reconfiguration.

Brief Description of Projects Approved for Collection and Use at a $3.00 PFC Level:

Capacity study.
Spill containment upgrades.
Terminal upgrades—restrooms/water.
Terminal area design.

Brief Description of Project Approved for Collection at a $3.00 PFC Level:

Runway 27R extension.

Brief Description of Withdrawn Project:

Kennel facility.

Date of withdrawal: March 10, 2010.

Decision Date: March 12, 2010.

FOR FURTHER INFORMATION CONTACT: Anna Guss, Atlanta Airports District Office, (404) 305–7146.

Public Agency: City of Colorado Springs, Colorado.

Application Number: 10–17–C–00–COS.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $3,618,000.

Earliest Charge Effective Date: April 1, 2015.

Estimated Charge Expiration Date: November 1, 2016.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Rehabilitation of taxiways G and H (phase IV).
Reconstruction of runway 12/20 (construction).
Checked baggage inspection system.

Brief Description of Project Partially Approved for Collection and Use:

Fleet improvement (phase III).

Determination: Partially approved for collection and use. Two of the proposed vehicles, enclosed sidewalk brooms, were determined not to be PFC eligible and were disapproved.

Decision Date: March 26, 2010.

FOR FURTHER INFORMATION CONTACT: Chris Schaffer, Denver Airports District Office, (303) 342–1258.

Public Agency: Ports of Douglas County and Chelan County, East Wenatchee, Washington.

Application Number: 10–10–C–00–EAT.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $881,750.

Earliest Charge Effective Date: May 1, 2010.

Estimated Charge Expiration Date: February 1, 2015.

Class of Air Carriers Not Required to Collect PFC'S: None.

Brief Description of Projects Approved for Collection and Use:

Environmental mitigation for fuel truck parking (engineering).
Glycol recovery system (engineering).
Grant Road relocation, environmental assessment.
Airport Way relocation.
Taxiway A lighting (engineering).
Aircraft rescue and firefighting truck purchase.

Decision Date: March 26, 2010.

FOR FURTHER INFORMATION CONTACT: Trang Tran, Seattle Airports District Office, (425) 227–1662.

AMENDMENTS TO PFC APPROVALS

Amended No., city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated chare exp. date	Amended estimated charge exp. date
06–03–C–02–FSM Fort Smith, AR	03/05/10	$759,249	$732,519	04/01/09	03/01/09
05–06–C–01–CAK Akron, OH	03/10/10	21,369,000	27,737,085	08/01/16	08/01/15
94–01–C–02–LNS Lancaster, PA	03/10/10	1,483,000	384,858	02/01/09	02/01/09
99–07–C–04–SJC San Jose, CA	03/12/10	12,778,609	8,004,112	07/01/02	07/01/02
04–14–C–02–SJC San Jose, CA	03/12/10	39,131,000	18,162,143	10/01/14	10/01/14
08–06–C–01–LFT Lafayette, LA	03/17/10	3,950,000	3,771,733	05/01/12	05/01/13
06–19–C–01–ORD Chicago, IL	03/22/10	1,290,509,174	1,423,480,828	07/01/24	11/01/24
99–03–C–04–JAN Jackson, MS	03/22/10	12,467,652	12,231,070	01/01/06	01/01/06
03–04–C–03–JAN Jackson, MS	03/22/10	4,639,569	4,208,921	11/01/07	11/01/07
02–05–C–02–BLI Bellingham, WA	03/29/10	926,873	926,855	10/01/06	10/01/06

Issued in Washington, DC, on April 22, 2010.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 2010–9760 Filed 4–28–10; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2008–0211]

Pipeline Safety: Implementation of Electronic Filing for Recently Revised Incident/Accident Report Forms for Distribution Systems, Gas Transmission and Gathering Systems, and Hazardous Liquid Systems

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice; Issuance of Advisory Bulletin.

SUMMARY: This notice advises owners and operators of gas pipeline facilities and hazardous liquid pipeline facilities that the new incident/accident report forms for their pipeline systems are now available for electronic filing.

FOR FURTHER INFORMATION CONTACT: Jamerson Pender, Information Resources Manager, 202–366–0218 or by e-mail at *Jamerson.Pender@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

On February 3, 2010 (75 FR 5460), PHMSA published Advisory Bulletin ADB–10–01 in the **Federal Register** to notify operators of gas and hazardous liquid pipeline facilities of newly revised incident/accident report forms and instructions. In ADB–10–01, PHMSA announced that the revised forms are to be used for all incidents/accidents occurring on or after January 1, 2010. PHMSA further noted that hard copy filing was required until PHMSA launched a new online system which was targeted for early March 2010. The new online system became available on March 8, 2010, and is available at the following URL: *http://pipelineonlinereporting.phmsa.dot.gov/.*

Advisory Bulletin (ADB–10–04)

To: Owners and Operators of Gas Pipeline Facilities and Hazardous Liquid Pipeline Facilities.

Subject: Implementation of Electronic Filing for Recently Revised Incident/Accident Report Forms for Gas Distribution Systems, Gas Transmission and Gathering Systems, and Hazardous Liquid Systems.

Advisory: This notice advises owners and operators of gas pipeline facilities and hazardous liquid pipeline facilities that the new electronic incident/accident reporting system is available online at the following URL: *http://pipelineonlinereporting.phmsa.dot.gov/.* The new online system can also be accessed through the old system at the following URL: *http://opsweb.phmsa.dot.gov* and click on "Incidents on or after Jan 1, 2010" for the respective report type. Each operator may use their current operator ID and PIN from the old system to access the new system. The new online system is for incidents/accidents occurring on or after January 1, 2010. The old online system is still available for filing supplemental reports for incidents/accidents that occurred prior to January 1, 2010, and is still the system for filing annual reports and Gas Integrity Management Program (IMP) reports.

Incidents and accidents that were previously filed in hard copy are being entered by PHMSA staff and should not be reentered by the operator into the system. Operators that have already submitted a hard copy 2010 incident report as previously instructed in ADB–10–01 should *not* re-submit that report using the online system. Where data quality checks are indicated for the hard copy filed reports, PHMSA will contact operators as needed to facilitate complete data entry for the initial submissions. Once all reports received in hard copy have been entered by PHMSA, operators will be able to submit supplemental reports online if needed. In addition, PHMSA is aligning the hard copy forms with the new online system by replacing the double asterisks with the single asterisks for those data fields deemed required for an initial submission to PHMSA.

PHMSA notes that for hazardous liquid small releases (identified as the areas shaded in gray on the hard copy version of the hazardous liquid accident form), the new online system will accept reporting and does the required logic checks for small releases (those under five barrels that do not involve a fatality, injury, property damage of $50,000 or more, as described in 49 CFR 195.50). However, the new online system does not exclude or hide questions that are not applicable to small releases. Therefore, PHMSA recommends that operators who report such events follow the shaded sections on the hard copy accident form and the guidance provided in the hard copy instructions while entering those events with the online system until a system enhancement is in place to further streamline the online reporting process.

PHMSA appreciates the cooperation of all users of the new online system. For questions regarding filing, please contact Jamerson Pender at 202–366–0218 or by e-mail at *Jamerson.Pender@dot.gov.*

Any questions regarding this new online system requirement can be directed to the Office of Pipeline Safety operator helpline at 202–366–8075.

Issued in Washington, DC, on April 22, 2010.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 2010–10018 Filed 4–28–10; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 23, 2010.

The Department of the Treasury will submit the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the publication date of this notice. A copy of the submission may be obtained by calling the Treasury Departmental Office Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury PRA Clearance Officer, Department of the Treasury, 1750 Pennsylvania Avenue, NW., Suite 11010, Washington, DC 20220.

Dates: Written comments should be received on or before June 1, 2010 to be assured of consideration.

Community Development Financial Institutions (CDFI) Fund

OMB Number: 1559–0035.

Type of Review: Extension of a currently approved collection.

Title: NMTC Recovery Act Allocatee Quarterly Report.

Form No.: CDFI 0031.

Description: The CDFI Fund is requiring American Recovery and Reinvestment Act (ARRA) New Markets Tax Credit Allocatees to complete, on a quarterly basis, a much shorter version of the CDFI Fund's Transactional Level Report (TLR), which Allocatees currently report through the Community Investment Impact System (CIIS). The Quarterly New Markets Report (QNMR) will help the CDFI Fund meet its own ARRA agency reporting requirement per agreement with OMB that New Markets Tax Credit Allocatees provide quarterly reports.

Respondents: Private Sector: businesses or other for-profits.

Estimated Total Burden Hours: 960 hours.

OMB Number: 1559–0024.

Type of Review: Revision of a currently approved collection.

Title: New Markets Tax Credit (NMTC) Program Allocation Tracking System (ATS)

Description: The purpose of the NMTC Program ATS is to obtain information on investors making qualified investments in community development entities that receive a New Markets Tax Credit allocation.

Respondents: Private Sector: businesses or other for-profits, not-for-profit institutions.

Estimated Total Burden Hours: 5,940 hours.

OMB Number: 1559–0034.

Type of Review: Financial Education & Counseling Pilot Program Application.

Title: Revision of a currently approved collection.

Form No.: CDFI 0033.

Description: The CDFI Fund is implementing a Financial Education and Counseling (FEC) Pilot Program to provide financial assistance awards to eligible organizations to provide a range of financial education and counseling services to prospective home buyers.

Respondents: Private Sector: businesses or other for-profits, not-for-profit institutions.

Estimated Total Burden Hours: 8,000 hours.

CDFI Fund Clearance Officer: Ashanti McCallum, Community Development Financial Institutions Fund, Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005; (202) 622–9018.

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. 2010–9885 Filed 4–28–10; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In accordance with section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which require or may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the best information currently available to the Department of the Treasury, the following countries require or may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

Kuwait
Lebanon
Libya
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen, Republic of

Iraq is not included in this list, but its status with respect to future lists remains under review by the Department of the Treasury.

Dated: April 23, 2010.

Manal Corwin,

International Tax Counsel (Tax Policy).

[FR Doc. 2010–9903 Filed 4–28–10; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Sound Incentive Compensation Guidance

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507. The Office of Thrift Supervision within the Department of the Treasury will submit the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. Today, OTS is soliciting public comments on its proposal to extend this information collection.

DATES: Submit written comments on or before June 28, 2010.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; send a facsimile transmission to (202) 906–6518; or send an e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *http://www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., Washington DC 20552 by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: You can request additional information about this proposed information

collection from Richard B. Gaffin (202) 906–6181, 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.

Comments should address one or more of the following points:

a. Whether the proposed collection of information is necessary for the proper performance of the functions of OTS;

b. The accuracy of OTS's estimate of the burden of the proposed information collection;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collection on respondents, including through the use of information technology.

We will summarize the comments that we receive and include them in the OTS request for OMB approval. All comments will become a matter of public record. In this notice, OTS is soliciting comments concerning the following information collection.

Title of Proposal: Sound Incentive Compensation Guidance.

OMB Number: 1550–0NEW.

Form Number: N/A.

Description: The guidance is based on three key principles that are designed to ensure that incentive compensation arrangements at a financial institution do not encourage employees to take excessive risks. These principles provide that incentive compensation arrangements should:

- Provide employees incentives that do not encourage excessive risk-taking beyond the organization's ability to effectively identify and manage risk;
- Be compatible with effective controls and risk management; and
- Be supported by strong corporate governance, including active and effective oversight by the organization's board of directors.

These principles and the guidance are consistent with the Principles for Sound Compensation Practices adopted by the Financial Stability Board (FSB) in April 2009, as well as the Implementation Standards for those principles issued by the FSB in September 2009.

This guidance will promote the prompt improvement of incentive compensation practices in the banking industry by providing a common prudential foundation for incentive compensation arrangements across banking organizations and promoting the overall movement of the industry towards better practices. Supervisory action could play a critical role in addressing misaligned compensation incentives, especially where issues of competition may make it difficult for individual firms to act alone. Through their actions, supervisors could help to better align the interests of managers and other employees with organizations' long-term health and reduce concerns that making prudent modifications to incentive compensation arrangements might have adverse competitive consequences.

Type of Review: New Collection.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 765.

Estimated Burden Hours per Responses: 40 hours.

Estimated Frequency of Response: On occasion.

Estimated Total Burden: 30,600 hours.

Dated: April 23, 2010.

Ira L. Mills,

Paperwork Clearance Officer, Office of Chief Counsel, Office of Thrift Supervision.

[FR Doc. 2010–9916 Filed 4–28–10; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Proposed Collection of Information: Annual Financial Statement of Surety Companies—Schedule F

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and Request for comments.

SUMMARY: The Financial Management Service, 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 a continuing information collection. By this notice, the Financial Management Service solicits comments concerning the Form FMS–6314 "Annual Financial Statement of Surety Companies—Schedule F."

DATES: Written comments should be received on or before June 28, 2010.

ADDRESSES: Direct all written comments to Financial Management Service, Records and Information Management Branch, Room 135, 3700 East-West Highway, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Robert Cline, Surety Bond Branch, Room 600F, 3700 East-West Highway, Hyattsville, MD 20782, (202) 874–6507.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below:

Title: Annual Financial Statement of Surety Companies—Schedule F.

OMB Number: 1510–0012.

Form Number: FMS–6314.

Abstract: This form provides information that is used to determine the amount of unauthorized reinsurance of a Treasury Certified Company, and to compute its underwriting limitations. This computation is necessary to ensure the solvency of companies certified by Treasury, and their ability to carry out contractual surety requirements.

Current Actions: Extension of currently approved collection.

Type of Review: Regular.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 341.

Estimated Time per Respondent: Varies from 8 hours to 80 hours.

Estimated Total Annual Burden Hours: 14,458.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: April 17, 2010.

Kent Kuyumjian,

Acting Assistant Commissioner, Management.

[FR Doc. 2010–9904 Filed 4–28–10; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Prohibited Service at Savings and Loan Holding Companies

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507. The Office of Thrift Supervision within the Department of the Treasury will submit the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. Today, OTS is soliciting public comments on its proposal to extend this information collection.

DATES: Submit written comments on or before June 28, 2010.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; send a facsimile transmission to (202) 906–6518; or send an e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *http://www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: You can request additional information about this proposed information collection from Lane C. Langford (202) 906–7027, 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.

Comments should address one or more of the following points:

a. Whether the proposed collection of information is necessary for the proper performance of the functions of OTS;

b. The accuracy of OTS's estimate of the burden of the proposed information collection;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collection on respondents, including through the use of information technology.

We will summarize the comments that we receive and include them in the OTS request for OMB approval. All comments will become a matter of public record. In this notice, OTS is soliciting comments concerning the following information collection:

Title of Proposal: Prohibited Service at Savings and Loan Holding Companies.

OMB Number: 1550–0117.

Regulation Requirements: 12 CFR 585.110 and 12 CFR 516.

Form Number: N/A.

Description: In order for a prohibited person to obtain or to continue in certain positions with a savings and loan holding company (SLHC), the SLHC or the individual will need to apply to the OTS for an approval order for a case-by-case exemption. OTS does not believe that this requirement is punitive in intent. Rather, the primary criteria in assessing such applications is whether the prohibited person in his/her proposed capacity at the SLHC participates in the major policy making functions of the SLHC or threatens the safety and soundness of the insured depository institution that is controlled by the SLHC, the interests of its depositors, or the public confidence in the institution.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 15.

Estimated Burden Hours per Responses: 16 hours.

Estimated Frequency of Response: On occasion.

Estimated Total Burden: 240 hours.

Dated: April 23, 2010.

Ira L. Mills,

Paperwork Clearance Officer, Office of Chief Counsel, Office of Thrift Supervision.

[FR Doc. 2010–9915 Filed 4–28–10; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[Docket ID OTS–2010–0008]

Supplemental Guidance on Overdraft Protection Programs

AGENCY: Office of Thrift Supervision, Treasury (OTS).

ACTION: Proposed Guidance with request for comment.

SUMMARY: OTS is proposing to issue this Supplemental Guidance on Overdraft Protection Programs (Supplemental Guidance) to update the Guidance on Overdraft Protection Programs OTS previously issued on February 18, 2005.

DATES: Comments must be submitted on or before June 28, 2010.

ADDRESSES: You may submit comments, identified by OTS–2010–0008, by any of the following methods:

- *E-mail: regs.comments@ots.treas.gov*. Please include ID OTS–2010–0008 in the subject line of the message and include your name and telephone number in the message.
- *Fax:* (202) 906–6518.
- *Mail:* Regulation Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention: OTS–2010–0008.
- *Hand Delivery/Courier:* Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, Attention: Regulation Comments, Chief Counsel's Office, Attention: OTS–2010–0008.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be entered into the docket and posted on Regulations.gov without change, including any personal information provided. Comments, including attachments and other supporting materials received are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Viewing Comments Electronically: OTS will post comments on the OTS Internet Site at *http://www.ots.treas.gov/?p=LawsRegulations.*

Viewing Comments Onsite: You may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment for access, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–6518. (Prior notice identifying the materials you will be requesting will assist us in serving you.) We schedule appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive a request.

FOR FURTHER INFORMATION CONTACT: April Breslaw, Director, Consumer Regulations, Compliance and Consumer Protection, (202) 906–6989; or Richard Bennett, Senior Compliance Counsel, Regulations and Legislation Division, (202) 906–7409, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Background

OTS is proposing to issue this Supplemental Guidance on Overdraft Protection Programs (Supplemental Guidance) to update the Guidance on Overdraft Protection Programs (Overdraft Guidance) OTS issued February 18, 2005 (70 FR 8428). OTS issued the Overdraft Guidance after notice and comment. *See* 69 FR 31858 (June 7, 2004).

Through its Overdraft Guidance, OTS explained concerns about how overdraft protection programs had been implemented and suggested Best Practices intended to improve these programs. The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve (Board), the Federal Deposit Insurance Corporation (FDIC), and the National Credit Union Administration (NCUA) issued guidance shortly thereafter containing many of the same Best Practices. *See* Joint Guidance on Overdraft Protection Programs, 70 FR 9127 (Feb. 24, 2005). Although OTS believes many institutions provide overdraft protection in a responsible manner, those that do not may be violating Federal law.

As stated in the preamble to the Overdraft Guidance (74 FR at 8429):

> OTS reminds savings associations * * * that overdraft protection programs must comply with all applicable Federal laws and regulations. It is important that savings associations have their overdraft protection programs reviewed by counsel for compliance with all applicable laws prior to implementation. As these laws and regulations are subject to amendment, savings associations are reminded to monitor applicable laws and regulations for revisions and to ensure that their overdraft protection programs are fully compliant with them.

Since 2005, the legal landscape has changed considerably. As discussed in detail in the proposed Supplemental Guidance, these changes are particularly evident with respect to Regulation DD (12 CFR part 230), which implements the Truth in Savings Act (12 U.S.C. 4301 *et seq.),* and Regulation E (12 CFR part 205), which implements the Electronic Fund Transfer Act (15 U.S.C. 1693 *et seq*.). The Board has significantly amended Regulation DD twice since 2005 and Regulation E once since 2005 to address overdraft services. *See Truth in Savings; Final rule,* 70 FR 29582 (May 24, 2005); *Truth in Savings; Final rule, official staff commentary,* 74 FR 5584 (Jan. 29, 2009); and *Electronic Fund Transfers; Final rule, official staff commentary,* 74 FR 59033 (Nov. 17, 2009). Most recently, the Board proposed further amendments to Regulations E and DD to clarify certain overdraft issues. *See Electronic Fund Transfers; Proposed rule,* 75 FR 9120 (March 1, 2010) and *Truth in Savings; Proposed rule,* 75 FR 9126 (March 1, 2010). As a result, many of the Best Practices addressed in the Overdraft Guidance are now required by law.

Further, since 2005 OTS has articulated the standards that it applies to determine whether an act or practice is unfair or deceptive under section 5 of the Federal Trade Commission Act (FTC Act) (15 U.S.C. 45). *See Unfair or Deceptive Acts or Practices; Final rule,* 74 FR 5498, 5502–5504 (Jan. 29, 2009) (UDAP final rule). OTS's proposed guidance, if adopted, would conclude that certain overdraft practices violate the FTC Act prohibition against unfair or deceptive acts or practices. The proposed Supplemental Guidance explains these situations in more detail.

Discussion of the Supplemental Guidance

This proposed Supplemental Guidance is designed to complement, rather than replace, the Overdraft Guidance. Accordingly, it does not revisit the safety and soundness concerns addressed in the Overdraft Guidance. Savings associations should continue to provide overdraft protection in conformity with the risk management advice contained in the Overdraft Guidance. In addition, OTS continues to encourage institutions to adhere to the following Best Practices, although the proposed Supplemental Guidance does not restate them:

- *Avoid promoting poor account management.* The Overdraft Guidance recommended as a Best Practice that a savings association should not market an overdraft program in a manner that encourages routine or intentional overdrafts. Rather, it indicated that a savings association should present the program as a customer service that may cover inadvertent consumer overdrafts. 70 FR at 8430.
- *Train staff to explain program features and other choices.* The Overdraft Guidance recommended as a Best Practice that a savings association train customer service or consumer complaint processing staff to explain their overdraft protection program's features, costs, and terms including how to opt out of the service. 70 FR at 8431. It also recommended that staff be able to explain other available overdraft products offered by the savings association and how consumers may qualify for them. *Id.*
- *Alert consumers before a transaction triggers any fees.* The Overdraft Guidance recommended as a Best Practice that when consumers attempt to withdraw, transfer, or otherwise access funds made available through an overdraft protection program (other than by check), a savings association should alert consumers that completing the transaction will trigger an overdraft protection fee. *Id.* It also indicated that a savings association should give consumers an opportunity to cancel the attempted transaction. *Id.*

The remainder of the Best Practices contained in the Overdraft Guidance would be updated by the proposed Supplemental Guidance. Aside from minor changes in the order in which they have been presented, the proposed Supplemental Guidance is organized into the same broad categories as the Overdraft Guidance: "Marketing and Consumer Communications" and "Program Features and Operation." However, for ease of reference, the following table shows where the Overdraft Guidance Best Practices are addressed in the proposed Supplemental Guidance.

ORGANIZATION OF OVERDRAFT GUIDANCE VS. SUPPLEMENTAL GUIDANCE

Overdraft Guidance title	Supplemental Guidance title and location
Marketing and Consumer Communications	
Avoid promoting poor account management.	No change—Best Practice remains in effect.
Fairly represent overdraft protection programs and alternatives.	Fairly represent overdraft protection programs—Part III.A.1. Provide information about alternatives when they are offered—Part III.A.2.
Train staff to explain program features and other choices.	No change—Best Practice remains in effect.
Clearly explain the discretionary nature of the program.	Same title, updated discussion—Part III.A.3.
Distinguish overdraft protection services from "free" account features.	Same title, updated discussion—Part III.A.4.
Clearly disclose program fees.	Same title, updated discussion—Part III.A.5.
Clarify that fees count against the disclosed overdraft protection dollar limit.	Clarify that fees will reduce the amount of overdraft protection provided—Part III.A.6.
Demonstrate when multiple fees will be charged.	Same title, updated discussion—Part III.A.7.
Do not manipulate transaction-clearing rules.	Same title, updated discussion—Part III.B.3.
Explain the impact of transaction-clearing policies.	Same title, updated discussion—Part III.A.8.
Illustrate the type of transactions covered.	Same title, updated discussion—Part III.A.9.
Program Features and Operation	
Provide election or opt-out of service.	Provide consumer choice—Part III.B.1.
Alert consumers before a transaction triggers any fees.	No change—Best Practice remains in effect.
Prominently distinguish balances from overdraft protection funds availability.	Disclose account balances in a manner that distinguishes consumer funds from funds made available through overdraft protection—Part III.A.10.
Promptly notify consumers of overdraft protection program usage each time used.	Same title, updated discussion—Part II.A.11.
Consider daily limits on fees imposed.	Reasonably limit aggregate overdraft fees—Part III.B.2.
Monitor overdraft protection program usage.	Same title, updated discussion—Part III.B.4.
Fairly report program usage.	Same title, updated discussion—Part III.B.5.

In addition, the Supplemental Guidance addresses one practice that was not addressed in the Overdraft Guidance. The practice concerns informing consumers when access to overdraft services will be or has been reinstated after suspension. *See* Part III.A.12 of the proposed Supplemental Guidance.

Request for Comment

OTS requests comment on all aspects of the proposed Supplemental Guidance. OTS specifically requests comment on the following issues:

- Part III.B.2 of the proposed Supplemental Guidance discusses reasonably limiting aggregate overdraft fees but does not provide guidance on reasonable per transaction overdraft fees. We note that section 102 of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (Credit CARD Act), Public Law 111–24, 123 Stat. 1734 (2009), provides in the context of credit cards, "The amount of any penalty fee or charge that a card issuer may impose with respect to a credit card account under an open end consumer credit plan in connection with any omission with respect to, or violation of, the cardholder agreement, including any late payment fee, over-the-limit fee, or any other penalty fee or charge, shall be reasonable and proportional to such omission or violation." Section 102 of Public Law 111–24, 123 Stat. 1734 (2009). The Board has issued a proposal to implement that requirement. *See Truth in Lending; Proposed rule,* 75 FR 12334 (March 15, 2010). Although section 102 and the Board's proposed rule apply only to penalty fees or charges on certain credit card accounts under open-end consumer credit plans, should OTS's final guidance include similar standards for overdraft fees on overdraft protection plans?
- Is the relationship between the Overdraft Guidance and the proposed Supplemental Guidance clear?

Paperwork Reduction Act

In accordance with section 3512 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521 (PRA), OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless it displays a currently valid Office of Management and Budget (OMB) control number.

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of OTS's, including whether the information has practical utility;

(b) The accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

All comments will become a matter of public record. Please follow the instructions found in the **ADDRESSES** caption above for submitting comments.

A copy of the comments may also be submitted to the OMB desk officer for the Agencies: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title of Information Collection: Supplemental Guidance on Overdraft Protection Programs.

OMB Control Numbers: 1550–0NEW.

Regulation Requirement: 12 CFR 563.27.

Description: Through previous Overdraft Guidance, OTS explained concerns about how overdraft protection programs had been implemented and suggested "Best Practices" intended to improve these programs. Both failure to adhere to certain Best Practices and the emergence of controversial implementation strategies raise the risk that overdraft protection programs have been operated in an unfair or deceptive manner that violates section 5 of the

FTC Act and the OTS Advertising Rule. Consequently, OTS is providing this Supplemental Guidance to clarify its supervisory expectations and the application of relevant laws and regulations. The burden associated with this collection of information may be summarized as follows:

Type of Review: New collection.

Affected Public: Savings associations.

Estimated Number of Respondents: 759.

Estimated Time for Developing Disclaimers: 4 hours.

Estimated Time for Training: 4 hours.

Total Estimated Time Per Respondent: 8 hours.

Total Estimated Annual Burden: 6,072 hours.

The text of the proposed OTS Supplemental Guidance on Overdraft Protection Programs follows:

OTS Supplemental Guidance on Overdraft Protection Programs

I. Background

Most institutions offer consumers a variety of options to avoid overdrawing their deposit accounts. These include providing consumers with lines of credit and permitting consumers to link one account to another. Fee based overdraft programs, in which a flat fee is charged each time that an overdraft is paid, have become common. Overdraft protection has typically been extended for checking, debit card, automated teller machine (ATM), and other deposit account transactions.

Through previous Guidance on Overdraft Protection Programs [1] (Overdraft Guidance), the Office of Thrift Supervision (OTS) explained concerns about how overdraft protection programs had been implemented and suggested "Best Practices" intended to improve these programs. While overdraft protection programs continue to be widely used,[2] new concerns about their implementation have emerged. In addition, both new rules and well-established laws have been applied to these programs. OTS is, therefore, providing this Supplemental Guidance to clarify its supervisory expectations and the application of relevant laws and regulations, although the Overdraft Guidance remains in effect with respect to matters not addressed here.

As discussed in Part III, many of the "Best Practices" covered in the Overdraft Guidance are now mandated. However, even where these practices are not legally required, OTS strongly encourages institutions to implement them as a means of addressing reputation risk.[3] Such risk has intensified due to public concern about the lack of choice, cost, and ways in which some overdraft protection programs have been provided.

Savings associations should review their overdraft programs to confirm that they are being operated in a manner that is effective, compliant with the law, and fair to consumers. To inform the examination process, OTS has added several questions to the Preliminary Examination Response Kit (PERK) that gather information about the way associations manage their overdraft programs. OTS will use this information to determine whether such programs warrant heightened review.

II. Legal Developments

Changes in the legal landscape mean that many of the Best Practices covered in the Overdraft Guidance are now required by law. These changes are particularly evident with respect to Regulation DD,[4] which implements the Truth in Savings Act,[5] and Regulation E,[6] which implements the Electronic Fund Transfer Act.[7]

Although OTS believes that many institutions provide overdraft protection in a responsible manner, the proposed guidance, if adopted, would conclude that institutions that engage in certain overdraft practices violate the prohibition on unfair or deceptive acts or practices in section 5 of the Federal Trade Commission Act (FTC Act).[8] OTS has recently articulated the standards that it applies to determine whether an act or practice is unfair or deceptive under the FTC Act.[9]

Essentially, an act or practice is unfair if: (1) It causes or is likely to cause substantial injury to consumers; (2) the injury is not reasonably avoidable by consumers themselves; and (3) the injury is not outweighed by countervailing benefits to consumers or to competition. While established public policy may be considered, public policy may not serve as the primary basis for a determination that an act or practice is unfair. An act or practice is deceptive if: (1) there is a representation or omission of information that is likely to mislead consumers acting reasonably under the circumstances; and (2) that information is material to consumers. The adoption of these standards provides OTS with a useful method of analyzing whether practices are unfair or deceptive. The other federal financial institution regulatory agencies and FTC take the same approach.[10]

III. Specific Overdraft Practices

A. Marketing and Consumer Communications

The Overdraft Guidance recommended a number of Best Practices for communicating with consumers. It explained that following such practices can minimize consumer confusion and complaints, foster good customer relations, and reduce legal and compliance risks to the savings association. The following updates that discussion.

1. Fairly represent overdraft protection programs.

The Overdraft Guidance encouraged savings associations to identify the consequences of extensively using overdraft protection for consumers.[11] The need to do so is heightened where associations target consumers who have experienced financial difficulties. For these consumers, associations should avoid marketing accounts covered by overdraft protection in a manner that leaves the impression that the accounts are designed to help avoid future

[1] *Guidance on Overdraft Protection Programs,* 70 FR 8428 (Feb. 18, 2005), issued as CEO Memorandum #211, *available at http://files.ots.treas.gov/25211.pdf.* The other Federal banking agencies and the National Credit Union Administration (NCUA) issued guidance shortly thereafter containing many of the same Best Practices. *See Joint Guidance on Overdraft Protection Programs,* 70 FR 9127 (Feb. 24, 2005).

[2] For example, close to 90% of the institutions recently studied by the Federal Deposit Insurance Corporation (FDIC) had some form of overdraft protection program. *See* FDIC Study of Bank Overdraft Programs at page 5 (Nov. 2008) (FDIC Overdraft Study), *available at http://www.fdic.gov/bank/analytical/overdraft/FDIC138_Report_FinalTOC.pdf.*

[3] Consistent with the "Best Practices" recommended in the Overdraft Guidance, OTS continues to encourage institutions to avoid promoting poor account management, train staff to explain program features and other choices, and alert consumers before a transaction triggers any fees. *See* 70 FR at 8430–31.

[4] 12 CFR part 230.

[5] 12 U.S.C. 4301 *et seq.*

[6] 12 CFR part 205.

[7] 15 U.S.C. 1693 *et seq.*

[8] 15 U.S.C. 45.

[9] *See Unfair or Deceptive Acts or Practices; Final rule,* 74 FR 5498, 5502–5504 (Jan. 29, 2009) (UDAP final rule).

[10] *Id.* (Board of Governors of the Federal Reserve (Board) and NCUA); Board and FDIC, Unfair or Deceptive Acts or Practices by State-Chartered Banks (Mar. 11, 2004), *available at http://www.federalreserve.gov/boarddocs/press/bcreg/2004/20040311/attachment.pdf;* Office of the Comptroller of the Currency (OCC) Advisory Letter 2002–3, Guidance on Unfair or Deceptive Acts or Practices (Mar. 22, 2002), *available at http://www.occ.treas.gov/ftp/advisory/2002–3.doc;* FTC Policy Statement on Unfairness, Letter from the FTC to the Hon. Wendell H. Ford and the Hon. John C. Danforth, S. Comm. on Commerce, Science & Transp. (Dec. 17, 1980), *available at http://www.ftc.gov/bcp/policystmt/ad-unfair.htm;* and FTC Policy Statement on Deception, Letter from the FTC to the Hon. John H. Dingell, H. Comm. on Energy & Commerce (Oct. 14, 1983), *available at http://www.ftc.gov/bcp/policystmt/ad-decept.htm.*

[11] 70 FR at 8431.

financial challenges, especially when contrary information is omitted. For example, it would be a material misrepresentation to market an account as particularly suitable for those with prior credit or bank account problems without informing consumers of significant overdraft fees associated with an account. As consumers who have had problems with their bank account in the past may be particularly likely to overdraw their accounts in the future, such fees may be likely to lead to significant expenses for them. Failing to provide such consumers with fee information appears to significantly impair their ability to determine whether an account meets their needs. Consequently, these circumstances violate the FTC Act prohibition against deceptive practices. For similar reasons, they also violate OTS's Advertising Rule.

2. Provide information about alternatives when they are offered.

The Overdraft Guidance recommended that, when informing consumers about an overdraft protection program, associations should also provide general information about other overdraft services or credit products, if any, that the associations offers.[12] Such information should address how the terms, including fees, for these services or products differ. For example, research indicates that most institutions offer overdraft protection through linked accounts or lines of credit,[13] and fees for such arrangements are typically lower than for automated overdraft programs.[14] OTS continues to recommend providing information about these services as a Best Practice.

An affordable small dollar term loan might also serve as an alternative to fee based overdraft protection. If an institution chooses to provide such credit, it may consider guidelines on affordable small dollar loans that the FDIC has developed.[15] Research indicates that institutions that employ these guidelines have been able to offer affordable small dollar loans that meet multiple business goals, including building long term customer relationships, cross selling additional products, and creating goodwill in the community.[16]

3. Clearly explain the discretionary nature of the program.

The Overdraft Guidance encouraged savings associations to make clear, where applicable, that the payment of an overdraft is discretionary.[17] Consistent with this advice, Regulation DD has since been interpreted to prohibit a financial institution from representing that it will honor all checks or authorize the payment of all transactions that overdraw an account, when the institution retains discretion at any time not to honor checks or authorize transactions.[18] Pursuant to Regulation DD, any advertisement promoting the payment of overdrafts must also now clearly disclose the circumstances under which the institution will not pay an overdraft.[19]

4. Distinguish overdraft protection programs from "free" account features.

The Overdraft Guidance discouraged savings associations from promoting free accounts and overdraft protection programs in the same advertisement in a way that suggests that overdraft protection is provided free of cost.[20] Regulation DD's prohibition against misleading or inaccurate advertising has since been interpreted in a manner that essentially bans this practice. Specifically, Regulation DD has been interpreted to ban marketing an account-related service for which the institution charges a fee—such as overdraft protection—in an advertisement that also describes the account as "free" or "no cost" (or a similar term), unless the advertisement clearly and conspicuously indicates that there is a cost associated with the service.[21] In addition, Regulation DD now prohibits institutions from advertising an account as "free" where any maintenance or activity fee may be imposed on it.[22]

Moreover, it would be a material misrepresentation to use marketing that focuses on account features that are "free" or inexpensive, but omits information about the cost of each overdraft transaction. This is particularly true when consumers have been automatically enrolled in programs that charge a significant fee for each overdrawn transaction. The net impression of such marketing may be to mislead consumers acting reasonably under the circumstances to believe that the total cost of the account (including overdraft protection) is free or inexpensive and to be unaware that engaging in overdraft transactions will result in the assessment of significant overdraft fees. Consequently, these circumstances violate the FTC Act prohibition against deceptive practices. For similar reasons, they also violate OTS's Advertising Rule.

Although not discussed in the Overdraft Guidance, associations should also be cautious about representing overdraft protection as "free" when it is only provided for accounts with higher costs for other services or less favorable terms. Such a situation might occur when "free" overdraft protection is provided only for accounts with increased maintenance fees or for accounts that pay lower deposit interest rates. Although a reasonable consumer may be misled into believing that the "free" overdraft protection was being provided at no cost, the consumer would essentially pay for the program through increased fees or a lower return, compared to other accounts offered by that association.[23] This kind of misrepresentation is material because it may affect the consumer's decision to select the account with "free overdraft protection" over another type of account. Consequently, these circumstances violate the FTC Act prohibition against deceptive practices. For similar reasons, they also violate OTS's Advertising Rule.

5. Clearly disclose program fees.

The Overdraft Guidance encouraged savings associations to disclose the dollar amount of the fee for each overdraft and any interest rate or other fee that may apply.[24] After the Overdraft Guidance was issued, Regulation DD

[12] 70 FR at 8430–31.

[13] *See* FDIC Overdraft Study at page 5 (finding that 62.1% of studied banks offered linked accounts and 50.1% of studied banks offer lines of credit).

[14] For example, according to the FDIC Overdraft Study, almost half of the banks studied with linked-account programs (48.9%) reported charging no explicit fees for the service. The most common fee associated with linked-account programs was a transfer fee; where charged, the median transfer fee was $5. The primary cost associated with overdraft line of credit programs was the interest charged on funds advanced, usually accruing at an annual percentage rate (APR) of around 18 percent. FDIC Overdraft Study at page iii.

[15] FDIC Affordable Small-Dollar Loan Guidelines, FIL–50–2007 (June 19, 2007), *available at http://www.fdic.gov/news/news/financial/2007/fil07050.pdf.*

[16] *See* "The FDIC's Small-Dollar Loan Pilot Program: A Case Study after One Year," FDIC Quarterly 2009, Vol. 3, No. 2, *available at http://www.fdic.gov/bank/analytical/quarterly/2009_vol3_2/smalldollar.html.*

[17] 70 FR at 8431.

[18] 12 CFR pt. 230, Supp. I, Comment 230.8(a)–10(ii) (interpreting § 230.8(a)).

[19] 12 CFR 230.11(b)(1)(iv).

[20] 70 FR at 8431.

[21] 12 CFR pt. 230, Supp. I, Comment 230.8(a)–10(v) (interpreting § 230.8(a)).

[22] 12 CFR 230.8(a)(2) and 12 CFR pt. 230, Supp. I, Comment 230.8(a)–10(v).

[23] *Cf.* Federal Trade Commission's Guide Concerning Use of the Word "Free" and Similar Representations, 16 CFR 251.1 ("[W]hen the purchaser is told that an article is 'Free' to him if another article is purchased, the word 'Free' indicates that he is paying nothing for that article and no more than the regular price for the other. Thus, a purchaser has a right to believe that the merchant will not directly and immediately recover, in whole or in part, the cost of the free merchandise or service by marking up the price of the article which must be purchased, by the substitution of inferior merchandise or service, or otherwise.")

[24] 70 FR at 8431.

was amended to require that institutions that promote overdraft protection provide periodic deposit account statements that include a total dollar amount for all fees or charges imposed on the account for paying overdrafts.[25] These disclosures were required for both the statement period and the calendar year-to-date.[26] Recently, Regulation DD was further revised to require these disclosures by all institutions, not just those that promote overdraft protection.[27]

6. Clarify that fees will reduce the amount of overdraft protection provided.

The Overdraft Guidance recommended that savings associations alert consumers that the fees charged for covering overdrafts, as well as the overdraft items themselves, will be subtracted from the overdraft protection limit disclosed.[28] Failing to explain the treatment of such fees is deceptive. Such an omission may mislead a reasonable consumer into believing that a more substantial amount of overdraft protection is available for use than is actually available. Such an omission is material because it may affect the consumer's decision about whether to engage in a transaction that would overdraft the account. For example, the consumer might believe that a transaction may be covered by overdraft protection when it would not because fees had eroded the limit available. Consequently, these circumstances violate the FTC Act prohibition against deceptive practices. For similar reasons, the omission of information on how fees affect overdraft limits also violates OTS's Advertising Rule.

7. Demonstrate when multiple fees will be charged.

The Overdraft Guidance recommended that savings associations promoting overdraft protection programs clearly disclose that more than one overdraft fee may be charged against the account each day, depending on the number of items presented for withdrawal from the consumer's account.[29] Omitting such information is deceptive, whether a savings association promotes overdraft protection, or not. Such an omission may mislead a reasonable consumer into believing that only one overdraft fee will be charged against an account each day. Such an omission is material because it may affect a number of consumer decisions, including whether to open an account in the first place, or whether to later engage in more than one transaction that overdraws an account on a specific day. Consequently, such an omission violates the FTC Act prohibition against deceptive practices. For similar reasons, such an omission also violates OTS's Advertising Rule.

8. Explain the impact of transaction-clearing policies.

The Overdraft Guidance encouraged savings associations to clearly explain to consumers that transactions may not be processed in the order in which they occur and that the order in which transactions are processed and cleared can affect the total amount of overdraft fees incurred by a consumer.[30] The Overdraft Guidance also recommended that associations clearly disclose their processing and clearing policies.[31]

Omitting such information is deceptive. Such an omission may mislead reasonable consumers to believe that transactions will be processed in the order in which they have occurred. The omission is material because it may affect a consumer's decision about when to engage in transactions to minimize or avoid overdrafts. Consequently, the omission violates the FTC Act prohibition against deceptive practices. For similar reasons, such an omission also violates OTS's Advertising Rule.

9. Illustrate the type of transactions covered.

The Overdraft Guidance recommended that savings associations clearly explain to consumers that overdraft protection fees may be imposed on transactions such as ATM withdrawals, debit card transactions, preauthorized automatic debits, telephone-initiated transfers, or other electronic transfers, if applicable, to avoid implying that check transactions are the only transactions covered.[32]

Since the Overdraft Guidance was issued, Regulation DD has been interpreted to expressly address this practice. This rule is now interpreted to prohibit advertisements that describe an institution's overdraft service solely as protection for overdrawn checks, when the institution also provides overdraft protection when an account is overdrawn by other means, such as ATM withdrawals, debit card transactions, or other electronic fund transfers.[33]

10. Disclose account balances in a manner that distinguishes consumer funds from funds made available through overdraft protection.

The Overdraft Guidance discouraged savings associations that provide consumers with a single deposit account balance from including overdraft protection funds in the balance.[34] Instead, the Overdraft Guidance advised associations to disclose only a consumer's own funds available for withdrawal. The Overdraft Guidance encouraged associations to separately and prominently identify the balance that does not include overdraft protection, if more than one balance is provided.[35]

Regulation DD has recently been amended to require that where an institution discloses balance information through an automated system, it must disclose a balance that excludes funds that the institution provides to cover overdrafts through a discretionary overdraft protection service, line of credit, or linked account.[36] Institutions are permitted to provide another balance that includes these funds, so long as they prominently disclose the types of funds that have been included.[37] Consistent with the Overdraft Guidance, OTS continues to encourage associations to make use of this approach whenever account balances are disclosed, not just when automated systems are employed.

11. Promptly notify consumers of overdraft protection program usage each time used.

The Overdraft Guidance advised savings associations to "promptly notify consumers of overdraft protection program usage each time used."[38] Failing to do so—including failing to provide a consumer with the information necessary to return the account to a positive balance—is deceptive. Such omissions may mislead a reasonable consumer into assuming that an account is in balance, when it is not. The omissions are material because this type of information would likely influence decisions about whether to proceed with additional transactions or replenish a deposit account first. Prompt notification is important

[25] *Truth in Savings; Final rule,* 70 FR 29582, 29593 (May 24, 2005) (promulgating § 230.11(a)).

[26] *Id.* Further, as previously discussed in Part III.A.3, after the Overdraft Guidance was issued, Regulation DD was revised to provide that any advertisement promoting the payment of overdrafts must clearly disclose the circumstances under which the institution will not pay an overdraft. 12 CFR 230.11(b)(1)(iv).

[27] *Truth in Savings; Final rule, official staff commentary,* 74 FR 5584, 5593 (Jan. 29, 2009) (amending § 230.11(a)). This provision took effect on January 1, 2010.

[28] 70 FR at 8431.

[29] *Id.*

[30] *Id.*

[31] *Id.*

[32] *Id.*

[33] 12 CFR part 230, Supp. I, Comment 230.8(a)–10(iv) (interpreting § 230.8(a)).

[34] 70 FR at 8431.

[35] *Id.*

[36] 74 FR at 5593 (promulgating § 230.11(c)). This provision took effect on January 1, 2010.

[37] *Id.*

[38] 70 FR at 8431.

because the shorter the time that elapses between the occurrence of an overdraft and consumer notification that overdraft protection has been accessed, the more benefit a consumer derives from the information. This is because the notification may prevent a consumer from incurring further overdrafts, as well as alert a consumer of the need to replenish funds in the underlying deposit account.[39] Consequently, such omissions violate the FTC Act prohibition against deceptive practices. For similar reasons, they also violate OTS's Advertising Rule. Where technologically feasible to do so, real time notification should be provided.

12. Inform consumers when access to overdraft services will be or has been reinstated after suspension.

Although not discussed in the Overdraft Guidance, it is deceptive to fail to notify consumers about the circumstances in which overdraft protection may be reinstated after suspension, *e.g.,* when a deposit clears the outstanding overdraft and fee balance. Failure to provide this information, particularly when a consumer has been previously notified that overdraft protection has been suspended, may lead a reasonable consumer to believe that overdraft protection will definitely not be available, when in fact, it is or may be available. As a result, a consumer may overdraw an account without appreciating that significant overdraft fees may result. For example, a consumer may attempt a point of sale transaction believing that it will be denied without charge if sufficient funds are not available. However, if overdraft protection has been reinstated and the transaction is paid despite insufficient funds, the consumer would be charged potentially significant overdraft fees. Consequently, failure to clearly and conspicuously notify a consumer about the circumstances in which overdraft protection may be reinstated after suspension violates the FTC Act prohibition against deceptive practices. For similar reasons, the failure also violates OTS's Advertising Rule.

B. Program Features and Operation

The Overdraft Guidance also recommended a number of Best Practices on the manner of providing overdraft protection. As the Overdraft Guidance noted, "appropriate management oversight of the program [is] fundamental to enabling responsible use of overdraft protection."[40] The following updates that discussion.

1. Provide consumer choice.

A longstanding concern about overdraft protection is the lack of consumer choice. In response to this concern, the Overdraft Guidance encouraged institutions to "obtain affirmative consent of consumers to receive overdraft protection."[41] Since then, the Board has revised Regulation E to partially address this practice.[42] When compliance is required on July 1, 2010, institutions will not be permitted to assess an overdraft fee for paying automated teller machine (ATM) withdrawals and one-time debit card transactions that overdraw a consumer's account, unless the consumer affirmatively "opts in" to the institution's payment of overdrafts for these transactions.

The revision to Regulation E will address opt-in for certain electronic transactions, which account for the largest share of overdraft transactions.[43] OTS recommends as a Best Practice, however, that associations also provide their customers with the opportunity to affirmatively choose or "opt in" to overdraft protection for transactions outside the scope of Regulation E's opt-in requirement.[44] Checking and ACH transactions fall into this category. Using an "opt in" approach to such transactions means that consumers who decline to consent to the payment of overdraft items will occasionally incur both a merchant fee and an insufficient funds fee for a returned item. However, as explained in Part III.B.2, research indicates that the large majority of overdraft fees are paid by a small portion of consumers who frequently overdraw their accounts. These consumers may have difficulty both repaying overdraft fees and bringing their accounts current, which may in turn cause them to incur additional overdraft fees. An opt-in approach could therefore ensure that these consumers make an informed, affirmative choice about whether to enroll in an overdraft protection program that could result in material overdraft fees unless sound account management is exercised.

2. Reasonably limit aggregate overdraft fees.

Research suggests that a relatively small number of consumers pay most of the overdraft fees incurred. For example, the FDIC Overdraft Study found that while 87% of consumers have less than five overdrafts per year, consumers that have more than five overdrafts annually pay over 90% of the total overdraft fees reported.[45] The Overdraft Guidance helped address this problem by advising institutions to consider providing a daily cap on the overdraft fees charged against any one account.[46]

Historically, OTS and its predecessor agency, the Federal Home Loan Bank Board (FHLBB), have indicated in rules[47] and legal opinions[48] that fees charged by savings associations are to be "reasonable." Indeed, going back at least 30 years the position of the agency has been that "a practice of charging grossly

[39] According to the FDIC Overdraft Study, about one-fourth of the banks it surveyed (24.6%) assessed fees on accounts that remained in negative balance status in the form of flat fees or interest charged on a percentage basis. FDIC Overdraft Study at page iii.

[40] 70 FR at 8430.

[41] *Id.* at 8431.

[42] *Electronic Fund Transfers; Final rule, official staff commentary,* 74 FR 59033, 59052 (Nov. 17, 2009) (promulgating § 205.17).

[43] According to the FDIC Overdraft Study, point of sale and debit transactions account for 41% of overdraft transactions at banks studied with automated programs. FDIC Overdraft Study at page 78. Further, debit transactions at banks studied with automated programs are generally small—around $20—while the typical $27 overdraft fee often exceeds the value of the transaction. FDIC Overdraft Study at page 79 and n.51. According to a Center for Responsible Lending report, debit card transactions (either at the point of sale or ATM) cause 46% of total overdrafts, while checks trigger just 27%, while the average overdraft fee for a point of sale or ATM transaction is $34. *See* Eric Halperin, Lisa James & Peter Smith, *Debit Card Danger: Banks offer little warning and few choices as customers pay a high price for debit card overdrafts* (CRL Debit Card Danger Report), Center for Responsible Lending (January 25, 2007) at 7–8, *available at http://www.responsiblelending.org/overdraft-loans/research-analysis/Debit-Card-Danger-report.pdf.*

[44] In some circumstances, the Overdraft Guidance also endorsed a different approach—automatically providing overdraft protection, but offering consumers the opportunity to "opt out" of it. However, such an approach will soon be impermissible for ATM and one-time debit card transactions under Regulation E. Further, since the Overdraft Guidance was issued, questions have been raised about the value of an "opt out" strategy for consumers. *See, e.g.,* 74 FR at 59038 ("Due to various factors such as consumer inertia and the difficulty in anticipating future costs, consumers may end up with suboptimal outcomes even when given a choice."); U.S. Gov't Accountability Office, *Credit Cards: Increased Complexity in Rates and Fees Heightens Need for More Effective Disclosures to Consumers* (Sept. 2006) at 26–27, *available at http://www.gao.gov/new.items/d06929.pdf* (indicating that although state laws applying to four of the six largest credit card issuers require them to provide consumers with the opportunity to "opt-out" of retroactive rate increases, few consumers exercise that right).

[45] FDIC Overdraft Study at page iv.

[46] 70 FR at 8431.

[47] *See, e.g.,* 12 CFR 550.380 ("If the amount of your compensation for acting in a fiduciary capacity is not set or governed by applicable law, you may charge a reasonable fee for your services.") and 12 CFR 533.6, 563e.27, 563e.43 (savings associations may charge reasonable copying and mailing fees).

[48] *See, e.g.,* FHLBB Op. Deputy Gen. Counsel (Oct. 22, 1986), *available at* 1986 FHLBB LEXIS 98 ("It is also our view that acceptance of reasonable fees for permissible activities is authorized for Federal associations.").

unreasonable fees might be objectionable as unsafe or unsound."[49]

In some circumstances, failure to impose a reasonable limit on aggregate overdraft fees is an unfair practice under the FTC Act. The risk of engaging in an unfair practice is heightened when an association fails to limit fees for consumers who frequently overdraw their accounts and, as a result, such consumers incur substantial injury in the form of unreasonable and excessive overdraft fees. Depending on the circumstances, these consumers may not be able to avoid the harm caused by high overdraft fees. For example, where overdraft protection is marketed deceptively, consumers may lack the information needed to make a reasonable choice among programs. Regardless of how overdraft protection is promoted, those who frequently overdraw accounts may simply not have other options in the market, as they may have credit histories and other characteristics that prevent them from obtaining less expensive services. Notably, younger consumers and those with lower incomes tend to exhibit a pattern of recurring overdrafts and a high volume of fees.[50] While some consumers may benefit from the occasional use of overdraft protection, the harm caused by high fees outweighs this benefit for consumers who frequently overdraw their accounts. Two of the circumstances in which the harm may particularly outweigh the benefit are where consumers' aggregate overdraft fees exceed the average daily balance of their accounts or the overdraft limit on their accounts. Based on OTS supervisory experience, most institutions do not provide overdraft protection in a manner that permits overdraft fees to reach such levels. However, when fees become excessive, consumers may have difficulty both repaying overdrafts and bringing accounts current, which may cause them to incur additional fees.

Aside from imposing a reasonable limit on overdraft fees, associations should also monitor customer usage of overdraft protection. This strategy is discussed below. Where use becomes excessive, associations should either limit it or offer consumers any lower cost services that may be available, as previously discussed in Parts III.A.1 and III.A.2.

3. Do not manipulate transaction-clearing rules.

The Overdraft Guidance warns savings associations, "Transaction-clearing rules (including check-clearing and batch debit processing) should not be administered unfairly or manipulated to inflate fees."[51] Such a situation would occur if, for example, a savings association varied its transaction-clearing rules on a daily, customer-by-customer basis in order to maximize each customer's fees. Where consumer accounts lack a sufficient balance, such a practice could cause consumers substantial injury in the form of unnecessary fees. Because consumers have no control over the order in which an institutions clears transactions and would not know which transaction clearing rule would be applied to any given transaction, this is a harm that consumers cannot avoid. While manipulating transaction-clearing order to inflate fees could increase an institution's fee income, it would not benefit consumers. Moreover, such fee generation not only fails to benefit the market, it suggests a lack of transparency: Economically rational consumers would likely move their accounts to other institutions if they understood that their transactions were being posted in an unfair manner. Consequently, manipulating transaction clearing in this way violates the FTC Act prohibition against unfair practices. Instead of operating an overdraft protection program in this manner, a savings association should establish consistent transaction clearing rules for similar accounts.

4. Monitor overdraft protection program usage.

The Overdraft Guidance notes the importance of monitoring overdraft protection usage as both a safety and soundness consideration and a Best Practice.[52] Where an association informs consumers that their usage will be held to specific limits, it is critical that the association monitor how the program is implemented as consumers are likely to rely on such representations. Such monitoring may identify excessive consumer usage of overdraft protection, which may indicate a need for alternative arrangements or other services.[53]

5. Fairly report program usage.

The Overdraft Guidance advises savings associations against furnishing negative information to credit reporting agencies (CRAs) when overdrafts have been paid under the terms of an overdraft protection program.[54] This advice was provided pursuant to the Fair Credit Reporting Act, which has long prohibited furnishing consumer information to a CRA that is known or reasonably believed to be inaccurate.[55] Savings associations should also be cognizant of new rules issued by OTS and other agencies effective July 1, 2010. These rules will require, among other things, that each furnisher establish and implement written policies and procedures regarding the accuracy and integrity of the information that it furnishes to a CRA.[56] Each furnisher must consider agency guidelines, which include, as an objective, furnishing consumer account information that is accurate.[57] In this context, "accuracy" means that the furnished information reflects the terms of the account and the consumer's performance and other conduct with respect to the account.[58] Furnishing negative information to CRAs when overdrafts are paid under the terms of an overdraft protection program may not be accurate because such information may not reflect the terms of the account or the consumer's performance and other conduct with respect to the account.

IV. Conclusion

Overdraft protection programs can provide a service that consumers value. However, these programs pose a number of operational risks. OTS expects institutions under its jurisdiction to manage these risks in a responsible manner and comply with applicable laws and regulations.

This concludes the text of the proposed OTS Supplemental Guidance on Overdraft Protection Programs.

Dated: April 13, 2010.

By the Office of Thrift Supervision.

John E. Bowman,

Acting Director.

[FR Doc. 2010–10006 Filed 4–28–10; 8:45 am]

BILLING CODE P

[49] FHLBB Op. Acting Gen. Counsel (1980), *available at* 1980 FHLBB LEXIS 274.

[50] FDIC Overdraft Study at pages 77–79.

[51] 70 FR at 8431.

[52] 70 FR at 8430–31.

[53] *See* Part III.A.2.

[54] 70 FR at 8431.

[55] *See* 15 U.S.C. 1681s–2(a)(1)(A).

[56] *Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies under Section 312 of the Fair and Accurate Credit Transactions Act,* 74 FR 31484, 31520 (July 1, 2009) (promulgating § 571.42(a)).

[57] *See* 74 FR at 31520 (promulgating § 571.42(b)) and 74 FR at 31521 (promulgating paragraph I.(b)(1) of Appendix E to part 571).

[58] *See* 74 FR at 31520 (promulgating § 571.41(a)) and 74 FR at 31521 (promulgating paragraph I.(b)(1) of Appendix E to part 571).

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Western Bonding Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 12 to the Treasury Department Circular 570, 2009 Revision, published July 1, 2009, at 74 FR 31536.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6850.

SUPPLEMENTARY INFORMATION: A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued under 31 U.S.C. 9305 to the following company:

Western Bonding Company (NAIC #13191) *Business Address:* 675 West Moana Lane, Suite 200, Reno, NV 89509. *Phone:* (775) 829–6650.

Underwriting Limitation b/: $340,000. *Surety Licenses c/:* NV.

Incorporated in: Nevada.

Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570 ("Circular"), 2009 Revision, to reflect this addition.

Certificates of Authority expire on June 30th each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (*see* 31 CFR part 223). A list of qualified companies is published annually as of July 1st in the Circular, which outlines details as to the underwriting limitations, areas in which companies are licensed to transact surety business, and other information.

The Circular may be viewed and downloaded through the Internet at *http://www.fms.treas.gov/c570.*

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6F01, Hyattsville, MD 20782.

Dated: April 13, 2010.

Sandra Paylor-Sanders,

Acting Director, Financial Accounting and Services Division.

[FR Doc. 2010–9979 Filed 4–28–10; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: General Casualty Company of Wisconsin

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 10 to the Treasury Department Circular 570, 2009 Revision, published July 1, 2009, at 74 FR 31536.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6850.

SUPPLEMENTARY INFORMATION: A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued under 31 U.S.C. 9305 to the following company:

General Casualty Company of Wisconsin (NAIC #24414) BUSINESS

Address: One General Drive, Sun Prairie, WI 53596–0001.

Phone: (608) 837–4440. *Underwriting Limitation b/:* $42,431,000.

Surety Licenses c/: AK, AZ, AR, CA, CO, CT, DE, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY.

Incorporated In: Wisconsin.

Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570 ("Circular"), 2009 Revision, to reflect this addition.

Certificates of Authority expire on June 30th each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as tong as the companies remain qualified (31 CFR part 223). A list of qualified companies is published annually as of July 1st in the Circular, which outlines details as to the underwriting limitations, areas in which companies are licensed to transact surety business, and other information.

The Circular may be viewed and downloaded through the Internet at *http://www.fms.treas.gov/c570.*

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6F01, Hyattsville, MD 20782.

Dated: April 13, 2010.

Sandra Paylor-Sanders,

Acting Director, Financial Accounting and Services Division.

[FR Doc. 2010–9905 Filed 4–28–10; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Regent Insurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 11 to the Treasury Department Circular 570, 2009 Revision, published July 1, 2009, at 74 FR 31536.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6850.

SUPPLEMENTARY INFORMATION: A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued under 31 U.S.C. 9305 to the following company:

Regent Insurance Company (NAIC# 24449)

Business Address: One General Drive, Sun Prairie, WI 53596–0001.

Phone: (608) 837–4440.

Underwriting Limitation b/: $5,632,000.

Surety Licenses c/: AL, AK, AZ, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.

Incorporated in: Wisconsin.

Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570 ("Circular"), 2009 Revision, to reflect this addition.

Certificates of Authority expire on June 30th each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (*see* 31 CFR part 223). A list of qualified companies is published annually as of July 1st in the Circular, which outlines details as to the underwriting limitations, areas in which companies are licensed to transact surety business, and other information.

The Circular may be viewed and downloaded through the Internet at *http://www.fms.treas.gov/c570.*

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Financial Management

Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6F01, Hyattsville, MD 20782.

Dated: April 13, 2010.

Sandra Paylor-Sanders,

Acting Director, Financial Accounting and Services Division.

[FR Doc. 2010–9906 Filed 4–28–10; 8:45 am]

BILLING CODE 4810–35–M

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public hearing—May 20, 2010, Washington, DC.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission.

Name: Daniel M. Slane, Chairman of the U.S.-China Economic and Security Review Commission.

The Commission is mandated by Congress to investigate, assess, and report to Congress annually on "the national security implications of the economic relationship between the United States and the People's Republic of China."

Pursuant to this mandate, the Commission will hold a public hearing in Washington, DC on May 20, 2010, to address "China's Emergent Military Aerospace and Commercial Aviation Industry."

Background

This is the fifth public hearing the Commission will hold during its 2010 report cycle to collect input from leading academic, industry, and government experts on national security implications of the U.S. bilateral trade and economic relationship with China. The May 20 hearing will examine the progress in China's attempts to field a modern air force and develop both its commercial and military aviation industrial complex. The May 20 hearing will be Co-chaired by Commissioners Daniel A. Blumenthal and Peter Videnieks.

Any interested party may file a written statement by May 20, 2010, by mailing to the contact below. On May 20, the hearing will be held in two sessions, one in the morning and one in the afternoon. A portion of each panel will include a question and answer period between the Commissioners and the witnesses.

Transcripts of past Commission public hearings may be obtained from the USCC Web site, *http://www.uscc.gov*.

DATE AND TIME: Thursday, May 20, 2010, 9 a.m. to 3:30 p.m. Eastern Daylight Time. A detailed agenda for the hearing will be posted to the Commission's Web Site at *http://www.uscc.gov* as soon as available.

ADDRESSES: The hearing will be held on Capitol Hill in Room 106 of the Dirksen Senate Office Building located at First Street and Constitution Avenue, NE., Washington, DC 20510. Public seating is limited to about 50 people on a first come, first served basis. Advance reservations are not required.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning the hearing should contact Kathy Michels, Associate Director for the U.S.-China Economic and Security Review Commission, 444 North Capitol Street, NW., Suite 602, Washington, DC 20001; phone: 202–624–1409, or via e-mail at *kmichels@uscc.gov*.

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005).

Dated: April 26, 2010.

Kathleen J. Michels,

Associate Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2010–10016 Filed 4–28–10; 8:45 am]

BILLING CODE 1137–00–P

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Granting the consent and approval of Congress to amendments made by the State of Maryland, the Commonwealth of Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact. (Apr. 26, 2010; 124 Stat. 1124)

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