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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
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3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

WHEN: Tuesday, September 14, 2010
9 a.m.–12:30 p.m.

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

RESERVATIONS: (202) 741–6008

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Presidential Documents

Title 3—

The President

Proclamation 8547 of August 20, 2010

Minority Enterprise Development Week, 2010

By the President of the United States of America

A Proclamation

Since our Nation's founding, the United States has been a beacon of economic opportunity and limitless possibility. America's strength and resiliency have relied on the vision of our entrepreneurs and small business owners, whose tireless work ethic has defined the character of our country. During Minority Enterprise Development Week, we celebrate the millions of minority business owners whose firms generate jobs, strengthen our economy, and embody the entrepreneurial spirit of America.

Even in the toughest of times, America has been characterized by the belief that anyone with a good idea and enough hard work can succeed and share those achievements with their employees and communities. Today, as we emerge from a historic recession, many families and businesses face difficult economic challenges, and we must continue to prioritize job creation as part of a sustained recovery that works for all Americans. Minority-owned and operated enterprises are essential to stabilizing our economy now, and laying a foundation for future economic growth and prosperity.

Looking forward, we must continue to remove barriers so these businesses can create new employment opportunities, increase their capacity, and advance our long-term prosperity. To achieve this goal, my Administration is committed to taking concrete steps to increase Government procurement opportunities for small and minority businesses. By unleashing the energy and ingenuity of American entrepreneurs in the domestic and international marketplaces, we can generate millions of jobs here at home, open and expand new markets, reduce barriers to trade, and ensure strong and balanced economic growth. As America competes in the global economy, it is vital we capitalize on the dedication, creativity, and acumen shown by our minority business owners and their employees. Through the National Export Initiative, my Administration is teaming with American businesses to double our exports over the next 5 years. The skills and leadership of minority business owners and employees will be critical as our public servants and business leaders develop the linguistic capabilities, cultural competencies, and international partnerships needed in a 21st century economy.

Minority Enterprise Development Week is anchored by the American legacy of entrepreneurial ambition and innovation. As we honor minority enterprises, their industrious owners, and their hard-working employees, let us also recognize the diversity, determination, insight, and innovation of American businesses, and the immeasurable support they lend to our leadership in the global marketplace.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim August 22 through August 28, 2010, as Minority Enterprise Development Week. I call upon all Americans to celebrate this week with appropriate programs, ceremonies, and activities to recognize the many contributions of our Nation's minority enterprises.

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

[FR Doc. 2010–21294
Filed 8–24–10; 8:45 am]
Billing code 3195–W0–P

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 305

[Docket No. APHIS-2006-0050]

Cold Treatment Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are adopting as a final rule, with changes, an interim rule that amended the phytosanitary treatment regulations for cold treatment enclosures and procedures, including regulations for precooling temperatures and temperature recording devices. The interim rule as amended by this document requires articles destined for cold treatment to be precooled at or below the highest temperature listed in the prescribed treatment schedule rather than at the intended treatment temperature. The amended interim rule also requires entities performing cold treatment to use measures approved by the Animal and Plant Health Inspection Service as adequate to ensure the security and integrity of cold treatment temperature data rather than requiring password-protected and tamperproof temperature recording devices specifically. These actions relieve certain requirements that we have determined are not necessary while continuing to ensure the effectiveness of cold treatment and prevent the introduction of plant pests into the United States.

EFFECTIVE DATE: August 25, 2010.

FOR FURTHER INFORMATION CONTACT: Dr. Inder P. S. Gadh, Senior Risk Manager–Treatments, Regulations, Permits, and Manuals, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1231; (301) 734-0627.

SUPPLEMENTARY INFORMATION:

Background

The phytosanitary treatments regulations in 7 CFR part 305 set out general requirements for certifying or approving treatment facilities and for performing treatments listed in the Plant Protection and Quarantine (PPQ) Manual[1] for fruits, vegetables, and other articles to prevent the introduction or dissemination of plant pests or noxious weeds into or through the United States. Within part 305, § 305.6 (referred to below as the regulations) sets out requirements for treatment procedures, monitoring, facilities, and enclosures needed for performing cold treatment for imported fruits and vegetables and for regulated articles moved interstate from quarantined areas within the United States.

In an interim rule[2] published in the **Federal Register** on July 2, 2007 (72 FR 35909-35915, Docket No. APHIS-2006-0050), and effective on August 31, 2007, we amended cold treatment regulations by:

- Imposing more stringent requirements for precooling fruit prior to cold treatment;
- Requiring the use of password-protected and tamperproof temperature recording devices;
- Adding requirements to increase the effectiveness of cold treatment conducted in vessel holds and treatment enclosures; and
- Providing for officials authorized by APHIS to conduct audits of the cold treatment process.

We based these changes on recommendations made in an internal review of treatment procedures by the Center for Plant Health Science and Technology (CPHST) of APHIS' Plant Protection and Quarantine (PPQ) program and on the findings of an APHIS-commissioned study conducted by the Cannon Design firm. Their report, dated June 30, 2004, and titled "Supplementary Guidelines for Cold Treatment Application," analyzed cold treatment practices described in the regulations and the PPQ Treatment Manual and offered treatment recommendations.[3] Both the CPHST review and the Cannon Design study were initiated in response to concerns by industry representatives and other interested parties that existing procedural requirements were inadequate to prevent the development of "hot spots," in which parts of fruit consignments undergoing cold treatment remain several degrees warmer than the temperature prescribed in the cold treatment schedule.

[NOTE: On August 31, 2007, we published a technical amendment to the interim rule in the **Federal Register** (72 FR 50201-50204, Docket No. APHIS-2006-0050). The technical amendment, which was effective upon publication, was necessary because another rule (72 FR 39482-39528, Docket No. APHIS-2005-0106, published on July 18, 2007, and effective on August 17, 2007) reorganized the regulations by moving some of the treatment-related provisions of the fruits and vegetables regulations in 7 CFR part 319 to the cold treatments regulations. This reorganization meant that the amendatory instructions in the interim rule no longer matched up with the paragraph numbers that we intended to amend in the cold treatment regulations. The technical amendment corrected this problem by changing the paragraph numbers in the interim rule's amendatory instructions to reflect those that were changed in the cold treatments subpart. The technical amendment did not alter the provisions of the interim rule, but only presented how the changes to the interim rule appear in the cold treatments subpart of the regulations after the subpart was amended by the final rule that became effective on August 17, 2007.

Also, on December 11, 2007, we published a correction to the interim rule (72 FR 70219-70220, Docket No. APHIS-2006-0050) that reinstated provisions that were inadvertently dropped from the rule during the reorganization of the regulations described in the August 2007 technical amendment.

Finally, a final rule published in the **Federal Register** on January 26, 2010,

[1] The PPQ Treatment Manual is available at (*http://www.aphis.usda.gov/import_export/plants/manuals/ports/treatment.shtml*).

[2] To view the interim rule, the comments we received, and a distribution table listing changes to paragraph numbering in the regulations after publication of the interim rule, go to (*http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0050*).

[3] Copies of this report are available on Regulations.gov at the address in footnote 2. If you access the report through Regulations.gov, please be aware that the PDF file of the report is approximately 17 megabytes in size and may take a long time to download.

and effective on February 25, 2010 (75 FR 4228-4253, Docket No. APHIS-2008-0022), removed treatments and treatment schedules from part 305 (and elsewhere in 7 CFR chapter III) and relocated them to the PPQ Treatment Manual. As part of this change, the section containing requirements for performing cold treatment was redesignated from § 305.15 to § 305.6, and minor changes were made to the section. The amendatory instructions in this document reflect that change.

To help guide the reader through this reorganization of the regulations, a distribution table laying out the changes in paragraph numbers from the interim through the final rule can be found on the Regulations.gov Web site (see footnote 2).

We solicited comments on the interim rule for 60 days ending August 31, 2007, and received three comments by that date. They were from foreign national plant protection organizations (NPPOs) and a private citizen. We have carefully considered the comments we received. One commenter raised no issues related to cold treatment or the changes we made in the interim rule. The issues raised by the other two commenters are discussed below.

General Comments

One commenter expressed concern that, because the rule was published as an interim rule, the commenter and other interested parties were not given an opportunity to contribute to the wording of the rule before it became effective.

Immediate action was necessary to amend the cold treatment regulations to ensure that such treatment continued to be effective against quarantine plant pests and thus prevent their introduction into the United States. During the 60 days between publication of the rule and its effective date, commenters were given the opportunity to review the rule and submit comments.

The same commenter also noted that the changed regulations would become effective during the produce export season of the commenter's country, giving exporters insufficient time for implementing the changes required for conducting cold treatment.

We made the interim rule effective 60 days after publication so that affected parties would have time to prepare for the changes in operations that would become necessary on the effective date of the rule.

Precooling Requirements

The interim rule amended the requirements for precooling, a procedure that involves cooling fruits or other regulated articles to a specified temperature before initiating cold treatment. To gain a better understanding of the precooling process, we commissioned Cannon Design to conduct a study and report their conclusions and recommendations. Cannon Design focused their investigation on the problem of "hot spots" in pallets of fruit undergoing cold treatment while in transit. Hot spots can occur when fruit continues to convert oxygen to carbon dioxide, a process that generates heat. After 7 days of treatment, fruit respiration can raise temperatures and create hot spots at the center of large fruit consignments several degrees warmer than fruit stacked at the perimeter. In their study, Cannon Design established that, in pallets of fruit loaded at 20 °C (68 °F) without significant air gaps between them, the fruit could maintain temperatures at or above the loading temperature during cold treatment. They concluded in their report that precooling before beginning treatment was essential to reducing the likelihood of hot spots.

The cold treatment schedules in the PPQ Treatment Manual allow for treatment temperatures ranging from -17.8 °C to 2.2 °C (0 °F to 36 °F), depending on the treatment schedule and the article to be treated. The highest treatment temperature listed in the treatment schedules, 36 °F (2.2 °C), was used by Cannon Design as the threshold for defining a hot spot. Through their modeling, they determined that precooling the fruit to 5 °C (41 °F) or lower eliminated hot spots (spots where the temperature was greater than 2.2 °C). Based on their findings, Cannon Design recommended that all fruit in a consignment be precooled to at least 5 °C before initiating cold treatment.

Prior to the interim rule, the regulations allowed precooling temperatures up to 4.5 °C (40 °F) for articles before undergoing cold treatment. However, based on our ongoing experience with administering cold treatments, we determined that this requirement was not sufficient to ensure that plant pests would be treated successfully. Accordingly, in the interim rule we amended the regulations to require that fruit intended for in-transit cold treatment be precooled to the treatment temperature. With that change, the required precooling temperature will always be 2.2 °C or lower, because none of the treatment options in the cold treatment schedules uses a treatment temperature above 2.2 °C. As a result of the August 2007 technical amendment and the January 2010 final rule, this requirement now appears in § 305.6(d)(4).

One commenter stated that APHIS has not established that precooling to the treatment temperature is necessary to achieve an effective treatment and that the requirements as amended in the interim rule are more restrictive than necessary.

The commenter stated that Cannon Design's modeling approach treats groups of pallet stacks as a single undifferentiated mass, with no gaps between stacks for airflow factored into the model. Should different pallet configurations be modeled, the commenter stated, the resulting changes in airflow could affect the size, location, and duration of any hot spots, which in turn could change the minimum precooling temperature needed to eliminate them.

The commenter suggested that APHIS revisit the modeling and include options in the final rule for equivalent methods of precooling that consider different pallet configurations and different precooling temperatures for each cold treatment, or range of treatments, within a treatment schedule and for each type of treatment enclosure. The commenter added that our requirements do not follow the less stringent precooling temperature of 5 °C or below recommended in the Cannon Design report we commissioned, and suggested that, in the case of cold treatment performed at temperatures up to 3 °C (37.4 °F), precooling to 5 °C is likely to be more than adequate.

We used the Cannon Design report as guidance in formulating the precooling requirements, but it should not be considered the definitive source for our decisions. The CPHST internal review and our experience in administering cold treatment also provided us with information for this purpose.

We acknowledge the commenter's point that further modeling of pallet configurations and airflow may yield additional information about the development of hot spots and optimal precooling temperatures. However, every consignment of shipped fruit is subject to numerous variables, including treatment enclosure conditions, pallet configurations, and airflow patterns, all of which can influence fruit temperatures within the consignment. Given these variables, we consider it infeasible to model scenarios and develop separate requirements for each different treatment environment.

As for the commenter's suggestion to raise the required precooling temperature to 5 °C, our review indicates that doing so would not provide adequate protection against

plant pests. In fact, we initiated the interim rule because we determined that the previous required precooling temperature of 4.5 °C, a lower precooling temperature than that recommended by the commenter, was not sufficient to eliminate hot spots for all treatment schedules at all temperatures.

However, we acknowledge that the amended precooling temperature requirements in the interim rule, which required precooling the entire consignment to the prescribed treatment temperature, can be made less restrictive and yet maintain an effective level of phytosanitary security.

A cold treatment "passes" when an official authorized by APHIS verifies that the fruit was held at the correct temperature for the correct time period in accordance with the regulations, and no hot spots are observed to have developed. Our past experience has established that cold treatments initiated after the fruit had been precooled to the highest temperature within the applicable treatment schedule can pass at treatment temperatures lower than the temperature at which the fruit was precooled. To cite an example, cold treatment schedule T107-a contains three treatment options: 36 °F or lower for 18 days, 35 °F or lower for 16 days, or 34 °F or lower for 14 days. Under T107-a, a consignment of fruit might first be precooled to the highest temperature in the schedule, 36 °F, and then begin treatment at 36 °F for 18 days. Soon after treatment begins, if the shipper estimates that the shipping time will be shorter than initially expected and subsequently decides to treat at 34 °F for 14 days, the fruit could be cooled to 34 °F for at least 14 days, and the treatment would pass, with no hot spots observed. Based on this experience, we have determined that the treatment temperature does not necessarily have to be equal to the precooling temperature to result in an effective treatment, although we also established that the previous precooling temperature of 4.5 °C is too high.

Given these considerations, we are changing the precooling temperature requirement to allow fruit intended for in-transit cold treatment to be precooled to a temperature no higher than the highest temperature of the treatment schedule under which the fruit will be treated. With the change we are making to the precooling temperature requirements, the maximum allowable precooling temperature will never be above 36 °F (2.2 °C), which is 2.3 °C lower than the precooling temperature required prior to publication of the interim rule.

It should be noted that this change does not affect any of the required cold treatments themselves; it only slightly adjusts the precooling requirements. Depending on what treatment option is selected from a schedule, some fruit will still require precooling at the actual treatment temperature. However, our experience indicates that as long as a consignment of fruit is precooled to the highest treatment temperature listed in the applicable schedule and treatment is performed in accordance with all other treatment requirements, any of the treatment options within that schedule can be administered to provide effective phytosanitary security against the plant pests of concern.

The interim rule required that fruit precooled outside the treatment enclosure be no more than 0.28 °C (0.5 °F) above the temperature at which the fruit will be treated prior to loading for treatment. We are amending that requirement in this final rule because in some cases the difference between the treatment temperature and the highest temperature in the overall treatment schedule is greater than 0.28 °C. As amended, § 305.6(d)(4) requires that fruit precooled outside the treatment enclosure be no more than 0.28 °C above the highest treatment temperature in the schedule under which the fruit will be treated, as listed in the applicable treatment schedule.

Temperature Monitoring Requirements

In the interim rule, we added a requirement that allowed precooling in in-transit treatment enclosures only if an official authorized by APHIS approves the loading of the fruit in the treatment enclosure as adequate to allow for fruit pulp temperatures to be taken prior to beginning treatment. In order to manually monitor fruit temperatures prior to treatment, an official must ensure that there is sufficient space within the enclosure to gain access to the entire consignment. If fruit is precooled outside the treatment enclosure, an official authorized by APHIS must take pulp temperatures manually from a sample of the fruit as the fruit is loaded for in-transit cold treatment to verify that precooling was completed.

One commenter stated that the requirement for manual sampling was unnecessary, adding that it fails to recognize alternative and equivalent options for using remote monitoring to measure fruit temperature. As support, the commenter cited a test conducted by Cannon Design in which a pallet of citrus was cooled, followed by pulp temperature readings being taken in fruit throughout the pallet. While readings taken at the bottom of the pallet were lower due to direct airflow, fruit temperatures throughout the rest of the pallet were nearly uniform due to thermal conduction. The commenter reasoned from this finding that the specific fruit sampled, and the carton from which it is chosen, are essentially unimportant to determining whether precooling requirements for a given pallet have been met, so there should be no requirement for an inspector to have the ability to manually monitor fruit temperatures prior to beginning treatment. The commenter suggested that we amend the regulations to provide for methods other than the manual sampling of pulp temperatures.

We acknowledge that the Cannon Design report found that pallets of fruit are cooled primarily by thermal conduction, although the report also cites airflow through box openings as a contributing factor to the cooling process. Cooler temperature readings at the bottom of the pallet indicate that airflow can influence temperature variations among individual pallets of fruit. Depending on the type of enclosure and the configuration of pallets, differences in airflow patterns can accelerate or impede cooling in different parts of a consignment. For this reason, an official must be able to sample a pallet on all sides to verify that precooling has uniformly and sufficiently cooled the entire consignment. Remote probes will not achieve the same result; they remain in a fixed position and cannot account for container and airflow variables, meaning they cannot provide as thorough or reliable a level of verification.

Continuation of Current Procedures

A commenter representing a foreign NPPO asked whether that organization could continue using its own requirements for precooling prior to cold treatment instead of following the new requirements for precooling in the interim rule (which now appear in § 305.6(d)(4)). The commenter's NPPO observes the following requirements: 1) Fruit must be precooled to the target temperature for 72 hours and must be at the target temperature for the last 24 hours of this period (APHIS imposes no time requirement for cooling in the regulations); and 2) a variance of 0.3 °C is allowed when the temperature is checked with a handheld thermometer (we allowed a variance of 0.28 °C in the interim rule, though it did not specify the type of thermometer).

We have determined that the precooling requirements observed by the commenting NPPO are consistent with the new requirements established in the interim rule, as the NPPO already requires precooling to the treatment temperature. However, for fruit precooled outside the treatment enclosure, we require that fruit pulp temperature samples be taken prior to loading the fruit, and that these sample temperatures not vary more than 0.28 °C above the highest temperature of the prescribed treatment schedule.

Sampling Location

The interim rule provided that an official authorized by APHIS must take pulp temperatures manually from a sample of the fruit as the fruit is loaded for in-transit cold treatment to verify that precooling was completed. One commenter asked whether sampling can be conducted after removing the fruit from the precooling space and before loading it into the treatment enclosure.

Temperature sampling should be conducted immediately before the fruit is loaded into the treatment enclosure. If the fruit sits outside the precooling space for any length of time before loading into the treatment enclosure, this location should be where the temperature sampling is conducted.

Officials Authorized by APHIS

The interim rule also included requirements that only officials authorized by APHIS may oversee proper administration of cold treatment, which includes approving the loading of fruit in the treatment enclosure and sampling fruit pulp temperatures. One commenter, a foreign NPPO, sought confirmation that an official authorized by APHIS can be an NPPO official from the commenter's country. Likewise, a commenter from another foreign NPPO requested that inspectors from that country be allowed to act as an official authorized by APHIS as defined in the interim rule.

The NPPOs of both these countries are signatories to the International Plant Protection Convention (IPPC) and therefore observe phytosanitary treatment standards that are recognized by other signatories, including the United States. Officials from any IPPC member country who are trained and authorized by APHIS can verify compliance with precooling requirements, approve the loading of fruit into treatment enclosures, initiate in-transit cold treatment, and exercise other responsibilities specified in the regulations.

Pallet Stacking

In the interim rule, we added requirements regarding vessel enclosures used for in-transit cold treatment of fruit. One specific change we made was to prohibit double-stacking of pallets, because doing so can constrict airflow to the fruit and allow hot spots to form.

A commenter requested that we define the term double-stacking with regard to pallets of fruit.

We define the term to mean one loaded pallet physically resting atop another loaded pallet.

Another commenter disagreed with our prohibition on double-stacking of pallets. They noted that the Cannon Design report recommended placing spacers between pallets to maintain adequate cooling airflow.

The Cannon Design study examined the effects of airflow on temperature in pallets of fruit. Through computer modeling and real-world simulations, Cannon Design determined that airflow patterns around pallet stacks influence the rate of cooling. To speed the rate of cooling in fruit, they recommended that air gaps be maintained by placing spacers between pallet stacks.

We concur with Cannon Design's conclusion that air gaps between and around pallets can affect the rate of cooling, but the report does not discuss using spacers as part of the physical testing that was conducted. We therefore lack sufficient data to determine the actual implications of using spacers between double-stacked pallets of fruit. For this reason, we are not changing the regulations established by the interim rule regarding double-stacking of pallets.

Security of Temperature Recorders

In the interim rule, we added requirements to the treatment procedures to help ensure the integrity of temperature recording. We required the temperature recording devices used during treatment to be password-protected and tamperproof. In addition, we required the devices to be capable of recording the date, time, and sensor number and automatic and continuous records of the temperature during all calibrations and during treatment.

One commenter stated that the requirement for password-protected and tamperproof temperature recording devices does not allow for equivalent measures for recording fruit temperatures. The commenter added that the security and integrity of cold treatment data could be achieved by other methods, such as proprietary software for interfacing with temperature recorders, encrypted data, limited distribution of necessary software, or locking doors to rooms containing recording equipment. The commenter requested that APHIS recognize equivalent temperature recording methods that can provide an effective level of security.

We agree that the security and integrity of cold treatment data is achievable through equivalent measures, as long as the recording devices and methods used conform to all applicable requirements. For this reason, we are revising the sentence "Temperature recording devices used during treatment must be password-protected and tamperproof" in § 305.6(d)(7) to read "Temperature recording devices used during treatment must be secured using measures approved by APHIS as adequate to ensure the security and integrity of cold treatment data." Regardless of which measures are employed to ensure the security and integrity of temperature recording devices, officials authorized by APHIS are required to identify instances of recording device manipulation or malfunction and make decisions about certifying consignments as necessary.

One commenter asked APHIS which organization was responsible for ensuring that shippers comply with the requirements for password-protected and tamperproof temperature recording devices. The commenter, a foreign NPPO, also asked whether officials of its organization with access to temperature recording devices and passwords would be liable for any problems involving the equipment, and expressed concerns about the availability and cost to exporters of such devices.

As noted above, we are amending the regulations established by the interim rule so that they no longer specifically require that temperature recording devices be password-protected and tamperproof. As a result, exporters will have the flexibility to use other measures to ensure adequate data security and integrity. APHIS and other NPPOs work in cooperation to ensure compliance with treatment requirements, including data security and integrity.

Placement of Temperature Probes or Sensors

In the interim rule, we added provisions specifying that a minimum of four temperature probes or sensors is required for vessel holds used as treatment enclosures, and a minimum of three temperature probes or sensors is required for other treatment enclosures.

One commenter stated that it is standard practice for APHIS to require a minimum of four pulp temperature sensors and two air sensors in an independent deck; six pulp sensors (three per deck) and three air sensors (one in the bottom deck and two in the upper deck) for a common deck; and two pulp sensors in a small lower bow deck. The commenter noted the interim rule requires a minimum of four temperature probes or sensors for vessel holds used as treatment enclosures and three sensors for other types of treatment enclosures and asked where the additional temperature sensors are to be placed in the vessel hold.

The requirements established in the interim rule set the minimum number of probes or sensors required for an approved vessel hold regardless of deck size or type, and provide that an official authorized by APHIS will have the option to require that additional temperature probes or sensors be used depending on variables such as treatment enclosure conditions, pallet configurations, and airflow patterns.[4]

Therefore, for the reasons given in the interim rule and this document, we are adopting the interim rule as a final rule with the changes discussed in this document.

This final rule also affirms the information contained in the interim rule concerning Executive Orders 12372 and 12988 and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

Effective Date

Pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find good cause for making this rule effective less than 30 days after publication in the **Federal Register**. This rule revises the precooling temperature and temperature recording device requirements included in the interim rule to make them less restrictive. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

Regulatory Flexibility Act

This final rule follows an interim rule that amended the regulations for cold treatment enclosures and procedures, including regulations for precooling temperatures and temperature recording devices.

We have prepared an economic analysis for this final rule. The analysis, which considers the number and types of entities that are likely to be affected by this action and the potential economic effects on those entities, provides the basis for the Administrator's determination that the rule will not have a significant economic impact on a substantial number of small entities. The full economic analysis may be viewed on the Regulations.gov Web site (see footnote 2 for instructions for accessing Regulations.gov). Copies of the economic analysis are also available from the person listed under **FOR FURTHER INFORMATION CONTACT**.

This final rule follows an interim rule that amended the phytosanitary treatment regulations for cold treatment enclosures and procedures, including regulations for precooling. As described in the economic analysis, it is unlikely that U.S. entities will be directly affected by the new cold treatment requirements; compliance will be the responsibility of the exporting entity. Any reporting or recordkeeping requirements for U.S. entities will be those normally associated with importing fruit from abroad. In theory, if foreign exporters do experience a cost increase because of this amendment, the quantity of fruit supplied may decrease. This decrease could result in an increase in the price of fruit, costing U.S. consumers and benefiting U.S. producers and suppliers. However, these impacts, if they occur, are expected to be negligible. Any additional costs because of this amendment will represent only a small fraction of the price of the fruit.

The number of U.S. industries that could be potentially affected by this amendment are small, and any impacts on these industries due to these changes in the cold treatment regulations will be insignificant.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 305

Irradiation, Phytosanitary treatment, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements.

■ Accordingly, the interim rule amending 7 CFR part 305 that was published at 72 FR 35909-35915 on July 2, 2007, and amended in documents published at 72 FR 50201-50204 on August 31, 2007, and 72 FR 70219-70220 on December 11, 2007, is adopted as a final rule with the following changes:

PART 305—PHYTOSANITARY TREATMENTS

■ 1. The authority citation for part 305 continues to read as follows:

Authority: 7 U.S.C. 7701-7772 and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. Section 305.6 is amended as follows:

■ a. In paragraph (c)(1), by removing the words "treatment temperature" the first time they occur and adding the words "highest temperature of the treatment schedule under which the fruit will be treated" in their place.

■ b. By revising paragraph (d)(4) to read as set forth below.

■ c. In paragraph (d)(7), by removing the words "password-protected and tamperproof" and adding the words "secured using measures approved by APHIS as adequate to ensure the security and integrity of cold treatment data" in their place.

§ 305.6 Cold treatment requirements.

* * * * *

(d) * * *

(4) Fruit intended for in-transit cold treatment must be precooled to no more than the highest temperature of the treatment schedule under which the fruit will be treated prior to beginning treatment. The in-transit treatment enclosure may not be used for precooling unless an official authorized by APHIS approves the loading of the fruit in the treatment enclosure as adequate to allow for fruit pulp temperatures to be taken prior to beginning treatment. If the fruit is precooled outside the treatment enclosure, an official authorized by APHIS will take pulp temperatures manually from a sample of the fruit as the fruit is loaded for in-transit cold treatment to verify that precooling was completed. If the pulp temperatures for the sample are 0.28 °C (0.5 °F) or more above the highest temperature of the treatment schedule under which the fruit will be treated, the pallet from which the sample was taken will be rejected and returned for additional precooling until the fruit reaches the highest temperature of the treatment schedule under which the fruit will be treated. If fruit is precooled in the treatment enclosure, or if treatment is conducted at a cold treatment facility in the United States, the fruit must be precooled to the highest temperature of the treatment schedule under which the fruit will be treated, as verified by an

[4] See Chapter 6 of the PPQ Treatment Manual for practices regarding sensor placement on vessels: (*http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/treatment.pdf*).

official authorized by APHIS, prior to beginning treatment.

* * * * *

Done in Washington, DC, this 18th day of August 2010.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2010–21134 Filed 8–24–10; 8:45 am]

BILLING CODE 3410–34–S

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563–AC10

Common Crop Insurance Regulations; Apple Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes the Common Crop Insurance Regulations, Apple Crop Insurance Provisions. The intended effect of this action is to provide policy changes and clarify existing policy provisions to better meet the needs of insured producers, and to reduce vulnerability to program fraud, waste, and abuse. The changes will apply for the 2011 and succeeding crop years.

DATES: This rule is effective August 25, 2010.

FOR FURTHER INFORMATION CONTACT: Erin Albright, Risk Management Specialist, Product Management, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility—Mail Stop 0812, PO Box 419205, Kansas City, MO 64141–6205, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule is non-significant for the purposes of Executive Order 12866 and, therefore, it has not been reviewed by OMB.

Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by OMB under control number 0563–0053 through March 31, 2012.

E-Government Act Compliance

FCIC is committed to complying with the E-Government Act of 2002, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees and compute premium amounts, and all producers are required to submit a notice of loss and production information to determine the amount of an indemnity payment in the event of an insured cause of crop loss. Whether a producer has 10 acres or 1000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this waiver helps to ensure that small entities are given the same opportunities as large entities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. *See* the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC or to require the insurance provider to take specific action under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action against FCIC for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, or safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

This rule finalizes changes to the Common Crop Insurance Regulations, Apple Crop Insurance Provisions that were published by FCIC on September 8, 2009, as a notice of proposed rulemaking in the **Federal Register** at 74 FR 46023—46026. The public was afforded 60 days to submit written comments after the regulation was published in the **Federal Register**. Based on comments received and specific requests to extend the comment period, FCIC published a notice in the **Federal Register** at 74 FR 59108 on November 17, 2009, extending the initial 60-day comment period for an additional 30 days, until December 17, 2009.

A total of 193 comments were received from 39 commenters. The

commenters were members of the U.S. Congress, insurance providers, State agricultural associations, agents, an insurance service organization, producers, State departments of agriculture, grower associations, agricultural credit associations, and other interested parties.

The public comments received regarding the proposed rule and FCIC's responses to the comments are as follows:

General

Comment: Several commenters urged FCIC to extend the comment period. A few commenters stated due to the public comment period overlapping with the apple harvest in some areas, sixty days was not adequate to properly review the proposed changes. The very producers the proposed amendment affected need ample time to study the changes and make their comments when not in the middle of their busy harvest season. An extended comment period would allow producers a fair chance to engage themselves in an issue directly affecting their livelihood. A commenter recommended extending the comment period six months and delaying the changes until the 2011 crop year. Another commenter recommended extending the comment period 30 days.

Response: FCIC elected to reopen the comment period for 30 days and on November 17, 2009, a notice of reopening and extension of the comment period was published in the **Federal Register.** Written comments and opinions on the proposed rule were accepted until close of business on December 17, 2009. The changes in this rule will be effective for the 2011 crop year.

Comment: A commenter stated the changes listed in the proposed rule seem reasonable. However, the commenter stressed the importance of letting each producer insure by orchard block, and not just as a farm entity. Each orchard block is in a different location and carries a different variety, and therefore a different value of "fresh apple production." The location can also determine whether a certain block is more prone to weather damage than another. Considering these variables, it would be unreasonable to force apple producers to insure as a farm entity rather than by block.

Response: Crop insurance is provided on a unit basis in accordance with the Basic Provisions and section 2 of the Apple Crop Provisions, not by block or farm entity. Therefore, policyholders must report acreage of a crop on a unit basis because all insurable acreage of apples within the unit is the basis for determining coverage, premium, and indemnity. Apple acreage may be divided into optional units according to section 34 of the Basic Provisions and section 2 of the Apple Crop Insurance Provisions. Section 2 of the Apple Crop Insurance Provisions allows optional units on noncontiguous land or for different types. No change has been made.

Comment: A commenter requested that a packing house inspection on apples not be added to the policy. The commenter stated that apples are already a perishable product and delays can cost the producer a great deal especially if the product has been damaged.

Response: The current Apple Crop Provisions do not reference packing house inspections and no changes regarding packing house inspections were proposed. No change has been made.

Comment: Several commenters urged FCIC to increase the price election for processing apples. A few commenters stated they do not spray, fertilize, prune, weed spray or thin differently for processing apples or fresh market apples in their area, but realize this is not the case in every State. Because of this, the commenters think the processing apple price election is too low. A commenter stated their reason for the requested price increase is the U.S. Standards for processing apples, established on June 1, 1961, no longer reflects the present industry standards that producers must meet. These new standards are much higher and are more costly to meet. Comparing a large apple processing plant's processing requirements to U.S. #1 Processing or U.S. #1, the quality requirements are U.S. #1 not U.S. #1 Processing. This is especially true in reference to peeling the apple. In another processor's standard, the amount of allowable defects is 2 percent by weight not the 5 percent allowed by U.S. #1 processing.

A commenter recommended the processing apple price be 50 percent of the fresh market apple price. A few commenters recommended the processing price election be $6.00 to $7.00 per bushel. A few commenters stated the processing price election should be $5.50 per bushel. Another commenter stated the average price received for processing over the past three years in their area was $4.54 and believes this should be a minimum price for processing apples.

Response: FCIC establishes the price for apples through the Special Provisions because such prices must be set each year. Further, the price is not based on the cost of producing the crop. The price is based on the best estimate of the average price producers can expect to receive for mature on-tree fruit ready for harvest. Since the Federal Crop Insurance Act (Act) limits coverage to crops in the field, with only a few exceptions, post-harvesting costs are excluded from the price data used to arrive at the value of processing apples for crop insurance purposes. Further, FCIC has no authority to arbitrarily set the suggested price or set a minimum price. According to the Act, the price election is the expected market price at the time of harvest. Any change to price elections for apples will be stated in the Special Provisions. No change has been made.

Section 1—Definitions

Comment: A few commenters stated the definition of "damaged apple production" should be revised to indicate that U.S. Fancy or better may be modified in the Special Provisions to make it clear that the Special Provisions have the authority to change these grades (*i.e.* Washington Fancy Grade, marketing orders, etc.).

Response: The definition of "grade standards" has language referencing the Special Provisions to provide for the use of existing or acceptable apple grade standards that are approved and enforced by individual States, regions, or organizations. This is to prevent producers from being penalized because their State or area uses a slightly different standard. For example, Washington Fancy Grade is comparable to U.S. Fancy Grade. However, for the purposes of determining damage, only those standards provided in the Special Provisions, which are comparable to U.S. No. 1 Processing Grade and U.S. Fancy Grade, will be used. No change has been made.

Comment: A commenter stated the proposed definition of "fresh apple production" stating policyholders must "follow the recommended cultural practices generally in use for fresh apple acreage in the county as determined by agricultural experts" is not practical. According to the Common Crop Insurance Policy Basic Provisions, agricultural experts are "persons who are employed by the Cooperative State Research, Education and Extension Service or the agricultural departments of universities, or other person approved by FCIC." The commenter believed the "expert" should be the crop adjuster using guidelines to determine what apple variety is commonly grown for processing (ex. Taylor Rome or York). The extension agent is charged to help educate the commercial farmer using research based information. The

commenter believed extension agents should not be a regulator/expert for crop insurance.

Response: Due to frequent changes in apple cultural practices apple growers used in different areas of the country, neither FCIC nor the insurance providers have the knowledge necessary to determine the recommended cultural practices generally used for the apple acreage in the area and, therefore, has deferred such determinations to agricultural experts who do have the knowledge to determine cultural practices. FCIC has revised the phrase "as determined by agricultural experts" to "in a manner generally recognized by agricultural experts" to be consistent with the definition of "good farming practices" in the Basic Provisions.

Comment: Several comments were received regarding subparagraph (4) in the definition of "fresh apple production." A few commenters understood the necessity and rationale behind the proposed rule change to the definition of "fresh apple production." A commenter appreciated FCIC taking steps to avoid fraud and abuse of crop insurance. Another commenter was in favor of the proposal to clarify the definition of "fresh apple production." While the commenter believed this will cause some concern in some of the apple growing areas, they believe it is needed to improve program integrity.

Response: FCIC believes such changes are necessary to protect the integrity of the program. No change has been made.

Comment: Several commenters stated that in North Carolina the majority of apples orchards are sprayed, mowed and maintained to grow fresh apple production. Many of the apple producers in North Carolina have renewed their orchards over the past few years by planting new varieties specifically for the fresh market. However, in the past five years, North Carolina has received adverse weather conditions resulting in damaged apple production. The result of these conditions has been that apples originally grown for the fresh market have had to be diverted for processing. The commenters stated because the proposed rule requires "verifiable" proof that at least fifty-percent of the fresh apple acreage was sold as fresh apples in one or more of the past three years, many of North Carolina's largest producers would be locked out of the market for fresh market apple insurance because of the unique weather conditions they have experienced in the past three years. The proposed amendments would basically eliminate crop insurance for producers who have suffered losses beyond their control, at a time when those same producers are most in need of a safety net to manage risk (and to access credit for another crop year). A commenter questioned what the proposed changes to the definition of "fresh apple production" would do to a policyholder's fresh apple production coverage if it was damaged three years in a row. It seems as though that would be no fault of the policyholder (since due to an insurable cause of loss) but would result in the policyholder not being able to insure the apples as fresh. Therefore, the commenters urged FCIC to take into account the weather related challenges apple producers have encountered by lengthening the time period in which apple producers can demonstrate in one of those years they have sold at least 50 percent of their apple acreage in the fresh market. Several commenters recommended lengthening the time period to at least five years, as opposed to three. Another commenter recommended a threshold of two of the last five years as this would be consistent with other coverage thresholds, such as written agreements for grapes. A few commenters recommended leaving the policy as it currently is and not making the proposed changes.

Response: FCIC understands apple producers may be subject to conditions that are out of their control. However, there have been issues with respect to whether producers seeking insurance have the experience or whether producers follow cultural practices appropriate to produce fresh apples. Fresh apples receive a higher price than processing apples and policyholders must demonstrate that they can produce fresh apples to be eligible to insure their apple acreage as fresh. However, FCIC agrees the proposed number of years in which policyholders must demonstrate they have sold at least 50 percent of their apple production as fresh to be eligible to insure their acreage as fresh may be too restrictive. Therefore, FCIC has revised the definition of "fresh apple production" by lengthening the time period in which policyholders can demonstrate that they have sold at least 50 percent of their production from fresh apple acreage as fresh apples to one of the last four crop years. This time period is consistent with section 7 of the Apple Crop Provisions which requires apples be grown on tree varieties that are adapted to the area and have, in at least one of the previous four years, produced a certain amount of production to be insured.

Comment: A few commenters stated the States in the Pacific Northwest Region primarily produce apples only for the fresh market and, therefore, this region should have more stringent requirements for substantiating fresh production in the definition of "fresh apple production." The commenters recommended these requirements include requiring the producer to have records to support two years in the past four years or possibly even two years in the past three years. Also, the producer must be able to provide pack-out records and the percentage of fresh history should be greater than 50 percent.

A commenter stated apple producers are subject to a variety of growing conditions that are uncontrollable and cannot be anticipated. Additionally, apple producers across the country employ different growing methods, face different growing challenges, and grow very different produce. What complicates the issue even further is the fact that FCIC would use an average of the previous three years sales for determining if producers are able to buy all fresh insurance or a mixture of fresh and processing insurance. Asking producers who have a significant financial investment in their product to carry insurance that would not cover their input costs is not sound policy.

Response: FCIC does not believe it is necessary to have more stringent requirements for substantiating fresh production in the Pacific Northwest Region. The intent of the provisions is just to ensure that the apples are intended for a fresh market and that the producer has the capability of producing fresh market apples. The final provisions should accomplish these goals. Therefore, the fresh apple production requirements will remain consistent from region to region. No change has been made.

Comment: A few commenters stated there needs to be clarification in subparagraph (4) of the definition of "fresh apple production" so that events beyond the producer's control do not affect the designation of acreage as fresh apple acreage. A commenter requested that any year declared as an emergency by the Governor be excluded and replaced with the next most recent year. Another commenter recommended adding to the proposed policy: "that any year when a Secretarial Disaster Declaration is made will be excluded and replaced with the next most recent year (provided that next most recent year was not also a disaster declared year)." Another commenter stated since the ultimate use of many varieties depends so much on weather and markets, the 50 percent rule seems appropriate. However, due to multi-year losses caused by adverse weather, the

commenter requested that in the event of multiple year claims, that a loss year could be replaced by a prior year in order to comply with the 50 percent rule.

Response: FCIC understands multi-year losses caused by adverse weather could make it difficult for some policyholders to prove they have sold at least 50 percent of their production from fresh apple acreage as fresh apples. However, replacing a year designated as a disaster with the next most recent crop year would add unnecessary complexity and confusion to the requirement. As stated above, FCIC has revised the definition of "fresh apple production" by lengthening the time period in which apple producers can demonstrate that they have sold at least 50 percent of their production from fresh apple acreage as fresh to one of the last four crop years. This change should lessen the likelihood a policyholder would be unable to insure their apple acreage as fresh due to multi-year losses and is less complex to administer.

Comment: A few commenters stated subparagraph (4) of the definition of "fresh apple production" is vague and needs to be clarified something like: "* * * You certify and, if requested by us, provide verifiable records to show at least 50 percent of the production from acreage reported as fresh apple acreage was sold as fresh apples in one or more of the three most recent crop years *from the specific acreage to be insured*." The commenters stated this needs to be in place to prevent policyholders from moving records between units, which undermines program integrity. Another commenter stated it is good the requirement in the definition of "fresh apple production" to show 50 percent of the production from the acreage reported as fresh was sold as fresh in one or more of the three most recent crop years is not tied to either a unit basis or a whole-farm basis. This provides flexibility and the leeway to help producers qualify as fresh market producers even if they have damage on part of their farm that requires part of their production to go to the processor. It also should encourage producers to buy above a catastrophic level of coverage in order to have separate units for fresh and processing apples even if the majority of their acreage is for processing.

Response: FCIC agrees the policyholder should provide verifiable records by unit to prevent producers from moving records from unit to unit. Insurance coverage is provided on a unit basis. Therefore, it is appropriate to require verifiable records by unit. FCIC has revised the provisions to state that to qualify as fresh apple production a policyholder must certify, and provide records if requested, that at least 50 percent of the production from each unit reported as fresh apple acreage, was sold as fresh apples.

Comment: A few comments were received regarding the term "verifiable records" used in subparagraph (4) of the definition of "fresh apple production." A few commenters stated it is critical that FCIC clearly define the term "verifiable records" in the proposed amendments. Producers need to have a clear and concise explanation of what constitutes "verifiable records" in order to properly comply with the regulations.

A commenter stated the term "verifiable records" needs to be made clear because of the multiple ways producers report their production. At present, there are many different types of records being submitted for reporting apple production. The producers need clear and specific definition of what will be accepted. An example would be: Name of buyers, date sold, quantity sold, grade, variety, and unit harvested from.

Response: Subsequent to the proposed rule, FCIC published a final rule amending the Common Crop Insurance Regulations, Basic Provisions on March 30, 2010. A definition for the term "verifiable records" was added to that final rule to refer the reader to the definition contained in 7 CFR part 400, subpart G. Therefore, a definition of "verifiable records" is not needed in the Apple Crop Provisions since the Common Crop Insurance Regulations Basic Provisions are a part of the policy. No change has been made.

Comment: A commenter stated a significant number of apple producers sell all or a portion of their apple production to the public as fresh apples, without undergoing any change in its basic form. Because the apple production is sold directly to the consumer without an intermediary, they are required to have a pre-harvest production appraisal completed prior to opening the orchard to the public. The commenter recognized the "Pre-Harvest Appraisal" policy requirement as a valuable element to the integrity of the program and that it provides the means for direct-marketers to substantiate the disposal of their apple production. An addition to the Apple Appraisal worksheet that references how the crop is to be disposed of would provide the supporting documentation necessary to meet this requirement.

A commenter stated direct market, retail, u-pick operations will not be able to provide third party verifiable records to show that at least 50 percent of the production was sold as fresh apples. All direct market, retail, u-pick operations that sell directly to the consumer without an intermediary are required to have a pre-harvest production appraisal. The commenter recommended adding a section/box on the pre-harvest appraisal that states, "Crop Disposition: Fresh or Processing" could meet the requirement.

Response: Under the Apple Crop Provisions, for direct marketed crops, pre-harvest and any verifiable records will be used to establish the production to count. To the extent that there are not verifiable records, production to count will be based on the appraisal. Although pre-harvest appraisals establish the production to count, a pre-harvest appraisal does not establish whether the production was sold as fresh apple production. Therefore, pre-harvest appraisals cannot be used to meet the requirements contained in paragraph (4) of the definition of "fresh apple production." The direct market records can be used to establish the production sold as fresh. No change has been made.

Comment: A commenter stated there should be a period of three years the producer has to start keeping these records as most do not keep this type of record now. The commenter recommended by the year 2015 a producer should be able to produce a fresh apple production record. Another commenter recommended a delay of the implementation date of this rule would permit producers ample time to ensure that all necessary records are being kept and that all requirements are being met in the event they have to file a claim.

Response: As with all APH programs, there is a requirement to certify yields based on actual records of production or transitional yields. This means producers should already have these records of past production. Therefore, the changes in this rule will be effective for the 2011 crop year. No change has been made.

Comment: A few commenters stated a producer may have fresh quality fruit grown in one of the past three years, but did not have a market for that fresh quality fruit. Because the policy does not insure against the inability to market the fruit, it should not limit the producer's ability to have insurance for fresh apple production. The commenters questioned whether this fresh acreage would not be covered if they are unable to prove a history and the provisions do not include language indicating when an appraisal is appropriate. The commenters recommended subparagraph (4) of the definition of "fresh apple production" should state verifiable records may also include appraisals performed by the

insurance provider. Another commenter stated the requirement in subparagraph (1) refers to production "* * * sold, or could be sold * * *" The commenter questioned whether the requirement in subparagraph (4) should have something similar to account for production that could have been sold as fresh (with an appraisal as documentation of the fresh quality) but was not.

A few commenters stated the definition of "fresh apple production" needs to include language that will indicate the FCIC/insurance provider action if the producer is not able to provide records of fresh production being sold due to specific circumstances. A commenter stated there would be a concern if the acreage would not be insured in this situation as policyholders could then use this provision to their advantage by not having to pay any premium after it is apparent that they do not have a loss by indicating after the fact that they do not have the necessary records to be insured as fresh apple production. The commenter questioned whether there would be a need for the type being insured for the current crop year to be changed from fresh to processing in this situation. The commenter also questioned whether a misreporting information factor would apply in this type of situation and if additional language should be added to clarify what would happen in this situation. The commenters also recommended that the coverage be changed from fresh to processing in these types of situations.

Response: Under paragraph (4) of the definition of "fresh apple production," for the acreage to qualify as for fresh fruit production, at least 50 percent of the apples had to be sold as fresh fruit. Therefore, the appraised production is not relevant to this particular requirement. Paragraph (1) only pertains to the quality of the apples, not whether they are sold or the quantity sold. Therefore, appraisals could be used for that particular requirement. If a policyholder is unable to find a market for their fresh quality apples as fresh apple production in at least one of the four most recent crop years, it would be questionable whether they were growing apples in an area conducive to producing fresh quality apples. If there is no market for the fresh fruit, then it must be considered as processing and should not be eligible to receive the higher price election.

Subsequent to the proposed rule, FCIC published a final rule amending the Common Crop Insurance Regulations, Basic Provisions on March 30, 2010, which removed the misreporting information factor. Therefore, the misreporting information factor would not apply in this situation. If a producer is certifying that 50 percent of the apples for the unit were sold as fresh, the producer is also certifying they have the records in support. If the producer provides this certification and does not have the records, this could be considered a false statement, which carries several different sanctions including voidance of the policy, denial of an indemnity for a possible scheme or device, or administrative, civil or criminal sanctions. Once certified, the producer cannot change the certification. No change has been made.

Comment: A commenter stated while verifiable sales records may not appear to be a problem to FCIC in the definition of "fresh apple production," apple producers do not believe it is fair to entirely depend on sales records to prove fresh apple production. The commenter recommended FCIC consider additional data in cases where multiple years of hail and/or weather related conditions damage an apple crop, that was intended to be sold as fresh fruit, but then had to be sold as processing fruit. In these cases, FCIC should consider asking apple producers to provide a copy of their spray records to document it was their intention to produce fresh apples. This requirement would be fair to apple producers and would be consistent with FCIC's proposed rule which stated "FCIC also proposes to revise the definition to clarify insureds must follow the recommended cultural practices generally in use for fresh apple acreage in the county as determined by agricultural experts." Using a combination of sales records and spray records will help ensure the new apple policy is fair to apple producers who are doing their best to produce a quality fresh apple and are also following the cultural practices necessary to produce a quality fresh apple. Apple producers understand and appreciate FCIC's intent to clarify existing policy provisions and at the same time reduce vulnerability to program fraud, waste and abuse. The commenter requested that the new policy provide policyholders with an additional reporting opportunity when hail and weather conditions ruin an apple crop in three or more years. Giving the policyholder this additional reporting opportunity will help document the cultural practices and the additional expenses that are involved in bringing a fresh apple to market.

Response: As stated above, FCIC has amended the requirement to allow the acreage to qualify as fresh production if the producer sold at least 50 percent of the production as fresh apple acreage in one or more of the four most recent crop years. It is unlikely that weather would prevent the sales of fresh apples for four consecutive years and, if it does, it provides evidence that the area may not be conducive to the production of fresh apples. Insurance for the fresh market can only be provided if the producer can produce and market apples as fresh. This requirement is simply a measure of that ability.

Comment: A commenter stated fresh cut apple slices are sold for fresh consumption. These should be considered fresh apples in the definition of "fresh apple production," even though the apple undergoes a change to its basic structure. It is consumed in the same way most people would eat fresh apples.

Response: If a policyholder sells fresh apple production for the purpose of apple slices, the apples would meet the requirements contained in subparagraph (1) of the definition of "fresh apple production." FCIC does not consider simply slicing the apple to be a change in basic form. However, to meet all the requirements of fresh apple production the policyholder would still need to be able to certify, and, if requested, provide records to show at least 50 percent of the production from acreage reported as fresh apple acreage by unit, was sold as fresh in one or more of the four most recent crop years. No change has been made.

Comment: A few commenters stated the language in the definitions of "fresh apple production" and "processing apple production" stating "or could be sold" is very confusing and weakens these two definitions. The commenters questioned what exactly is meant by "could be sold." The commenters recommended the language be changed to "or intended to be sold."

Response: The Apple Crop Provisions do not insure against a policyholders inability to sell their fresh apple production as fresh apples. Assuming that the producer meets all the other requirements for fresh production, if a policyholder has fresh apple production, but is unable to market the fruit to sell as fresh, these apples should still be counted as fresh apple production to count and valued at the fresh apple price election. Therefore, the phrase "could be sold" should be included in the definition. The suggested revision to the definition cannot be adopted because use of the phrase "or intended to be sold" is vague and it is difficult to prove intent. No change has been made.

Comment: A few commenters stated the definitions of "fresh apple

production" and "processing apple production" changed "Apple production" to "Apples" at the beginning (and "is sold" to "are sold" to match) but subparagraph (1) still refers to a change in "its" basic form or structure, which no longer matches the plural subject "Apples." The commenters stated a possible solution would be to delete the word "its" in each definition.

Response: FCIC agrees the word "its" no longer matches the plural subject and has deleted the word "its" from the definitions of "fresh apple production" and "processing apple production."

Comment: A commenter stated the structure of the definition of "fresh apple production" indicates any apples that fail to meet all four requirements would not be considered fresh apple production and presumably, by default, would be considered processing apple production. The first part of the definition of "processing apple production" would support this, but the rest might not. For example, apples that met subparagraphs (1) through (3) of the "fresh apple production" definition, but did not have the records required in subparagraph (4) that at least half were sold as fresh at least once in the last three years would not meet the "fresh apple production" definition, but would not fall under either subparagraph (1) or (2) of the "processing apple production" definition. The commenter stated if the failure to meet any one of the four requirements for fresh means the apple production will be considered processing, it would seem the "processing apple production" definition could end after "Apples from insurable acreage failing to meet the insurability requirements for fresh apple production." However, that might leave open the question of whether apples reported as fresh on the acreage report are really to be considered and insured as processing. The commenter stated these definitions need to be reviewed and probably rewritten.

Response: FCIC has clarified in the definition of "fresh apple production" that if the acreage has production that does not meet all of the requirements for fresh apples, the acreage must be designated on the acreage report as acreage as processing apple production. Therefore, such production will fall within paragraph (2) of the definition of "processing apple production."

Comment: A few commenters stated the first word of subparagraph (1) in the definitions of "fresh apple production" and "processing apple production" does not need to be capitalized unless the numbered subparts start a new line, in which case the first word of the other subparts would need to be capitalized as well.

Response: FCIC has revised the definitions of "fresh apple production" and "processing apple production" to create subparagraphs and has capitalized the first word of each subparagraph.

Comment: A few commenters questioned if a policyholder reports apple acreage as fresh on the acreage report, but ends up selling the production for processing, whether that will require a retroactive revised acreage report to change the insured type from fresh to processing. Or, if the acreage remains insured under the intended fresh type, the commenters questioned whether that year's acreage and production will be certified as fresh (as reported) or processing (as the production was disposed) to update the APH database for the subsequent crop year. If so, this will present significant difficulties, and even more so if different coverage levels are involved.

Response: By designating the apples as fresh on the acreage report, the policyholder is certifying they meet the requirements to qualify as fresh apple production. If a policyholder reports apple acreage as fresh on the acreage report, and meets the requirements to qualify as fresh apple production, but has a loss in quality due to an insured cause of loss and sells the production for processing; this will not require a retroactive revised acreage report. The crop is still insured as fresh apple production and the producer may be eligible for an indemnity for the damaged production. If the production is not damaged, it is included as fresh apple production to count. That production would be reported on the subsequent year's production report. Regardless of whether the apples are damaged, failure to sell the production as fresh apple production may impact the ability to insure the acreage as fresh market production in future crop years. No change has been made.

Comment: A commenter stated the definitions of "fresh apple production" and "processing apple production" contain requirements that are very troubling when determining what production is used for claim purposes. It currently appears that production produced from acreage designated as fresh apples on the acreage report would not meet the definition of fresh apple production and, therefore, could not be included as production to count, if such production was sold after undergoing a change in basic structure (*i.e.,* processing apple). This would be true even in cases where the production did not qualify as damaged production.

Response: Under the base policy, production to count is determined by whether the apple is marketable or whether it grades at least U.S. No. 1 Processing, not on the disposition of the fruit. Therefore, production from acreage that meets all the requirements for fresh apple production that grades at least U.S. No. 1 Processing will be considered as production to count, even if such production is sold for processing. No change has been made.

Comment: A few commenters understood in the definition of "type" that replacing the specific definition of "Fresh, processing, or varietal group apples* * *" with the generic "A category of apples as designated in the Special Provisions" provides flexibility "to allow for type changes in the future" as stated in the Background of the proposed rule. In such cases, it would be helpful to provide a sample Special Provisions for reference as to whether any type changes are being proposed, presumably not immediately for Apples since the Background refers to "future" changes. Such a generic definition also makes it less clear than before as to what might constitute a type; it becomes necessary to look up one or more of the county Special Provisions to get some idea as to what "types" are involved when referenced elsewhere in the Crop Provisions. A few commenters questioned with the proposed rule eliminating the term "varietal group" and revising the definition of "type," will FCIC be utilizing the existing numerical type codes as shown in the Special Provisions. If FCIC is considering expanding to new type codes, the commenters recommended the use of new type codes and not re-use of the existing 111 and 112 type codes, as well as the 114 and 115 type codes, as this may create issues with converting existing data. The commenter stated that if the proposed changes are implemented, it will be necessary to change the Special Provisions, too. Because of the importance of the Special Provisions, the commenter recommended that FCIC provide insurance providers with a preview of the Special Provisions.

Response: The types and numerical type codes will not change for the 2011 crop year. As stated in the proposed rule, a more generic definition of "type" will allow for changes or additional types in the future. FCIC agrees if type codes are expanded in the future, new type codes may be used as opposed to using the existing type codes. This is also consistent with other Crop Provisions and allows FCIC to make changes in the Special Provisions, if applicable, and without having to

promulgate regulations to revise, add or change type of apples. This will allow insurance of new types much quicker than if rulemaking were required, allowing FCIC to be more responsive to the risk management needs of producers. By including only the insurable apple types in the Special Provisions for a county, which are provided annually to the producer, there should be no confusion in any county what types are insurable. Because no new types are currently proposed to be added, there is nothing available for preview. No change has been made.

Section 2—Unit Division

Comment: A few commenters stated it is difficult to comment on the impact of this proposed change when the definition of "type" is essentially deferred to the Special Provisions so the commenters cannot be certain how many types there might be. If fresh, processing and varietal groups continue to be separate types, then the proposed change will allow separate optional units for fresh and processing apples as well as for varietal groups and non-contiguous land, as before. This probably would be a beneficial change for apple producers who produce both fresh and processing, since the types are supposed to be kept separate anyway. The commenters questioned if RMA has researched the potential increased risk of allowing these additional optional units to determine if the premium rates might need to be revised accordingly.

Response: As stated above, the types and numerical type codes will not change for the 2011 crop year. FCIC agrees allowing separate optional units by type will be a beneficial change for apple policyholders who produce both fresh and processing apples. FCIC reviewed the effect on losses due to allowing optional units by type and determined this change should not have any adverse affect on current premium rates. No change has been made.

Comment: A few commenters questioned when it will be determined whether the apple production is considered fresh or processing: when it is reported on the current year's acreage report; when final disposition of the production is made; or when the acreage and production is certified to update the next year's APH database. If apple acreage is reported as fresh on the acreage report, but then sold as processing, the commenters questioned what that will do to the separate optional units for fresh and processing apples.

Response: Designation of apple acreage as fresh or processing occurs on the acreage report based on the certification provided by the producer. If the acreage is subsequently determined not to qualify as fresh apple production, the policy and law provides for remedies. As stated above, production to count is determined in accordance with the claims provisions, not the disposition of the crop. The production to count for the current crop year will be considered as the production to be reported for the next crop year. Apple production, from apple acreage designated as fresh on the acreage report, that is sold as processing, could affect the producer's ability to qualify their apple acreage as fresh for the subsequent crop year. If, in the subsequent crop year, the producer is unable to prove that at least 50 percent of the production from acreage reported as fresh apple acreage by unit was sold as fresh apples in one or more of the four most recent crop years, the acreage would not qualify as fresh for that year. No change has been made.

Section 3—Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

Comment: A commenter stated provisions that will allow optional units by type, processing or fresh, and allow separate levels of coverage by type should solve current policy inequities and encourage proper separation of types. A few commenters stated section 3(a) may be beneficial in some regions but the majority of apple production in the Pacific Northwest is intended for fresh market only.

Response: FCIC agrees allowing optional units by type and allowing different coverage levels for all fresh apple acreage in the county and for all processing apple acreage in the county will encourage proper separation of processing and fresh acreage. FCIC had received several requests prior to the proposed rule to allow separate coverage levels by fresh and processing apple acreage. Offering separate coverage levels by fresh and processing apple acreage provides the apple producers a better method to manage their risk. No change has been made.

Comment: A few commenters did not agree with the intended effect of the proposed provisions in section 3(a). It was the commenters' recommendation that the policyholder continue to be allowed to choose a single coverage level on a county basis and all insurable types in the county would be insured on this basis. Another commenter stated if the intent in the future is to allow different levels, prices and units by variety (like occurred for grapes this year) in section 3(a), the policy should be prepared for this. The commenter recommended the language should state "You may select only one coverage level by type," rather than saying by fresh and by processing.

Response: FCIC did not intend to allow coverage levels by type. The intent of the provisions in section 3(a) is to allow different coverage levels for all fresh apple types in the county and for all processing apple types in the county. Offering separate coverage levels by fresh and processing apples provides the apple producers a better method to manage their risk. No change has been made.

Comment: A few commenters stated they have concerns with making the proposed change in section 3(a) since the different types are not treated as separate crops (such as for California grapes where the insureds would have to add all types/varieties by the sales closing date with the chosen level and price) but are potentially separate optional units that could end up being combined if the optional unit requirements are not met. The commenters questioned what happens if fresh apples are being insured and processing apples are added to the acreage report (because all apples in the county must be insured) or it is determined the apples do not qualify as fresh apple acreage during the coverage period, when it is after the sales closing date deadline to select a coverage level. These items need to be addressed in the provisions.

Response: The intent of the proposed provisions in section 3(a) is to allow separate coverage levels for all qualifying fresh apple acreage in the county and for all processing apple acreage in the county. Offering a separate coverage level by fresh apple acreage and processing apple acreage does not automatically imply each type be treated as a separate crop. FCIC has revised section 3 to include provisions if the policyholder only has fresh apple acreage designated on the acreage report and processing apple acreage is added after the sales closing date, the insurance provider will assign a coverage level equal to the coverage level the policyholder selected for their fresh apple acreage. If the policyholder only has processing apple acreage designated on the acreage report and fresh apple acreage is added after the sales closing date, the insurance provider will assign a coverage level equal to the coverage level the policyholder selected for their processing apple acreage. The producer knows if the acreage qualifies as fresh apple acreage by acreage reporting and if the information is incorrectly

reported, there are remedies in the policy and by law.

Comment: A few commenters questioned in section 3(a) if the Special Provisions continue to designate fresh, processing, and varietal groups as separate types, would the acreage reported as fresh and the acreage reported as processing within the same varietal group be allowed to have different coverage levels although they may be required to have the same price election.

Response: As stated above, the types and numerical type codes will not change for the 2011 crop year. Varietal groups are identified as fresh types in the Special Provisions. Therefore, any apple acreage grown for processing must be designated as the processing apple type and would not qualify as a fresh type. The price election is different for fresh apple types and the processing apple types. Acreage reported as fresh and the acreage reported as processing would be allowed to have different coverage levels. No change has been made.

Comment: A few commenters questioned whether in section 3(a) an apple producer would be able to elect catastrophic risk protection (CAT) coverage on the processing apple acreage and buy-up coverage on fresh apple acreage as long as the price percentage on the fresh was the same as the CAT percentage. The commenters questioned if the option to have different levels is intended to apply only to different buy-up levels. Some Crop Provisions include a statement to the effect that if CAT coverage is elected on any type/variety, then all types/varieties must be CAT.

Response: If the policyholder elected the CAT level of insurance for fresh apple acreage or processing apple acreage, the CAT level of coverage will be applicable to all insured apple acreage (fresh and processing) in the county. FCIC has revised the provisions accordingly.

Comment: A few commenters stated it was their understanding the intent of the proposed section 3(a) was to allow the policyholder to elect different coverage levels for fresh apple acreage versus processing apple acreage. The language does not currently indicate this intent as it only indicates one coverage level may be elected for each of these different types of apples. If this is the intent, the commenters stated the language needs to be clarified such as "You may select a different coverage level for fresh apple acreage and processing apple acreage." This revised language addresses the fact the coverage level could be different for each of these different types versus previously being limited to the same coverage level percentage for both types. When the language states one level may be selected for each of these two types it is not clear whether it must be the same or can vary between these two types. The language needs to be clarified so it is clear as to what is being intended.

Response: Section 3(a) specifically states that it allows different coverage levels for processing and fresh apples. It does not mention "type" at all so there should not be any confusion. FCIC has revised the provisions to add an example to clarify a policyholder may select one coverage level for all fresh apple acreage in the county and a different coverage level for all processing apple acreage in the county.

Comment: A commenter stated the first comma between the words "including" and "interplanted" in section 3(c) should be deleted.

Response: FCIC has revised the provisions accordingly.

Comment: A few commenters questioned using the word "bearing" in redesignated section 3(c)(2). Producers are required to report their uninsurable acres, and when trees are first planted, the trees will be non-bearing. The commenters questioned whether it is really the intent for producers to report zero trees on their uninsurable acres.

Response: The information that must be submitted in accordance with section 3(c) is required in order to establish the producer's APH approved yield and the amount of coverage. While section 3(c)(2) only requires the bearing trees on insurable and uninsurable acreage to be reported, the number of bearing and non-bearing trees on insurable and uninsurable acreage must be reported on the Pre-acceptance Worksheet. However, since non-bearing trees are not eligible for coverage under the policy, the intent is to have the producer report zero if there are no bearing trees in the unit. Since premium and indemnity payments are based on the number of trees that meet eligibility requirements, insurance providers are required to track bearing trees as outlined in the Crop Provisions and the Crop Insurance Handbook. No change has been made.

Comment: A few commenters questioned the need to know the planting pattern in redesignated section 3(c)(3). This requires space on the Pre-acceptance Worksheet that could better be used to ask if the producer is "intending to direct market" any portion of their crop. The commenters stated the insurance providers already capture tree spacing and tree count, which is what is needed to determine if there have been tree removals or acreage reductions.

Response: FCIC requires the policyholder to report the planting pattern so the insurance provider can use this information to determine if there is adequate tree spacing for the policyholder to carry out the recommended orchard management practices. No change has been made.

Comment: A commenter was in favor of the language in section 3(d), which allows the insurance provider to charge uninsured causes (rather than lower the guarantee) if the producer fails to notify the insurance provider of an event or cultural practice that reduces the yield potential. This will provide incentive for the producer to report this to the insurance providers rather than wait to see if they are caught at loss time.

Response: FCIC agrees the language proposed in section 3(d) will provide incentive for policyholders to notify their insurance provider of an event or cultural practice that reduces the yield potential. No change has been made.

Comment: A few commenters stated section 3(d) specifically states the yield used to establish the production guarantee will be reduced. Although much of this language exists in the current Apple Crop Provisions, the commenters stated FCIC needs to clarify what the yield will be reduced to or the procedures to be applied to reduce the yield.

Response: There are numerous possible situations and it is not possible to list them all in the policy. For this reason, instructions are provided in sections 7F(2)(c) through (f) of the Crop Insurance Handbook. Since the preamble to the Basic Provisions already states that the handbooks issued by FCIC apply to the policy, it is not necessary for a specific reference to such procedures in this provision. No change has been made.

Comment: A few commenters stated section 3(d), as written in the proposed rule, now appears to require a yield reduction any time anything happens that *may* reduce the approved APH yield. The commenters recommended either retaining the phrase "as necessary" before the phrase "based on our estimate" or changing "We will * * *" to "We may * * *"

Response: FCIC agrees and has retained the phrase "as necessary" before the phrase "based on our estimate" in section 3(d).

Comment: A few commenters stated the phrase "as indicated below" at the end of the first sentence of section 3(d) could be deleted since the subsequent phrase "If the event or action occurred:" leads into sections 3(d)(1) through (3).

Response: FCIC has revised the provisions accordingly.

Comment: A few commenters stated the reference to the phrase "any event or action of any of the items listed in sections 3(c)(1) through (4)" in section 3(d) should be changed to refer to section 3(c)(1), or possibly sections 3(c)(1) and (4), since section 3(c)(2), number of bearing trees, and section 3(c)(3), age of trees and planting pattern, are not an "event or action" that will occur at a particular time and potentially reduce the approved actual production history (APH) yield.

Response: FCIC agrees and has revised the provision to refer to any "situation" listed in sections 3(c)(1) through (4). This better describes all of the possibilities.

In addition, FCIC has removed the phrase "of any of the items" in section 3(d) because it is not needed.

Comment: A few commenters stated according to the Background of the proposed rule, this proposed change is intended to eliminate redundancy, but there is still a fair amount of repetition in sections 3(d)(1) through (3). As one example, section 3(d) begins "We will reduce the yield used to establish your production guarantee * * *" but that phrase is repeated in each of sections 3(d)(1) through (3) when perhaps it could be abbreviated to something like "* * * the yield will be reduced * * *"].

Response: FCIC has revised the provisions.

Comment: A few commenters recommended language be added to the last sentence of section 3(d)(1) to read as follows: "* * * If you fail to notify us of any circumstance that may reduce your yields from previous levels, we will reduce your production guarantee or assess uninsured cause of loss against your claim at any time we become aware of the circumstances." The phrase "or assess uninsured cause of loss against your claim" is the additional suggested language being proposed. The producers have a responsibility to report to us damage and removal of trees, etc. If they report it to us timely, we can adjust their production guarantee and premium. There should be a penalty if they do not timely report this information and it is discovered by the adjuster at claim time. Currently there is no penalty, so there is little incentive to timely report this information to us.

Response: FCIC does not agree the additional suggested language should be added. Section 3(d)(1) refers to circumstances that occur before the beginning of the insurance period. Coverage can never be provided for any damage occurring prior to the beginning of the insurance period. Therefore, premium cannot be charged and there cannot be any uninsured cause of loss appraisals for coverage that could never be provided. No change has been made.

Comment: A commenter questioned, in proposed section 3(d)(1) for a carryover policy, how this is even possible as the current crop year's insurance period begins on the day immediately following the end of the insurance period for the prior crop year (in most cases harvest of the crop). It would appear in most cases if the insured had damage to the prior year's crop on trees or damage to the trees themselves, the insured would report a notice of loss.

Response: The insurance period ends when the crop is harvested, so if the trees are thinned at the end of harvest but before it is complete, this would be prior to the start of the insurance period. However, because it does not affect the harvest, sections 3(d)(2) or 3(d)(3) would not be applicable and the provisions of section 3(d)(1) would apply. No change has been made.

Comment: A few commenters questioned in sections 3(d)(2) and (3) if insureds will always be aware of an event or action that "may occur after the beginning of the insurance period * * *" in order to notify the insurance provider of that potential event or action. The commenters questioned how something unknown to the insured can be reportable. A commenter recommended deleting the opening phrase "Or may occur" in each of these subsections. And if such notification is not provided, but the event or action does not occur, does section 3(d)(3) still require the insurance provider to do an appraisal and reduce the approved APH yield. A commenter stated sections 3(d)(2) and (3) indicate both the current year's APH and the subsequent crop year's APH will be reduced; the commenters questioned whether this was the intent.

Response: Generally, producers should be aware of what is going on in their farming operations, including situations that may affect this year's crop production that may occur after the beginning of the insurance period (*e.g.,* a planned orchard renovation). Therefore, the producers should be able to timely notify their reinsured company. In situations where a planned event (*e.g.,* grafting of new varieties on existing trees) does not occur, then no adjustments are made since the situation did not occur. For situations impacting the yield used to establish the production guarantee after insurance has attached but the reinsured company was not notified, production lost due to uninsured causes equal to the amount of the reduction in the yield used to establish your production guarantee will be applied in determining any indemnity. The yield used to establish the production guarantee is not adjusted for the current crop year.

Section 5—Cancellation and Termination Dates

Comment: A few commenters recommended moving the phrase "in accordance with the terms of the policy" in section 5(b) to the beginning of the sentence to read: "If, in accordance with the terms of the policy, your apple policy is cancelled or terminated for any crop year after insurance attached * * *" The commenters also recommended adding a comma before "whichever is later" or use parentheses instead of commas. A commenter recommended changing "insurance will be considered to have not attached" to "insurance will be considered not to have attached"

Response: FCIC has revised the provisions accordingly.

Section 6—Report of Acreage

Comment: A few commenters stated the Background section of the proposed rule indicates the second sentence of section 6 will be revised "* * * to clarify only acreage qualifying as fresh apple production is eligible for the Optional Coverage for Fresh Fruit Quality Adjustment provisions contained in section 14 * * *" in order to "* * * help ensure processing apple production is not insured or adjusted as fresh apple production." However, no actual proposed language to replace that second sentence was provided in the proposed rule. The commenters questioned whether the public will be given an opportunity to review a draft of these proposed revisions.

The commenters also stated this language also indicates the insured must designate all acreage by type by the acreage reporting date. As indicated in the above comments, if different coverage levels are going to be allowed between fresh apple acreage versus processing apple acreage, these two types and levels will need to be timely reported by the sales closing date in order to comply with the deadlines for adding types and levels.

Response: The proposed language to replace the second sentence of section 6 was in the amendatory language of the proposed rule with request for comments. The amendatory language, which preceded the regulatory text in the proposed rule, stated "g. Amend section 6 by removing the phrase 'Blocks of apple acreage grown for

processing are' and adding the phrase 'Any acreage not qualifying for fresh apple production is' in its place in the second sentence." As stated above, FCIC has revised section 3 to include provisions if the policyholder only has fresh apple acreage designated on the acreage report and processing apple acreage is added after the sales closing date, the insurance provider will assign a coverage level equal to the coverage level the policyholder selected for their fresh apple acreage. If the policyholder only has processing apple acreage designated on the acreage report and fresh apple acreage is added after the sales closing date, the insurance provider will assign a coverage level equal to the coverage level the policyholder selected for their processing apple acreage.

Section 7—Insured Crop

Comment: A few commenters recommended deleting the "or" at the end of section 7(b)(1) since it is not the second-to-last item listed.

Response: FCIC has revised the provisions accordingly.

Comment: A few commenters questioned whether it is necessary to add section 7(d) to "clarify" the insured crop is apples "(d) That are grown for: (1) Fresh apple production; or (2) Processing apple production." This would seem to be covered by the opening statement of (d), "* * * all apples in the county for which a premium rate is provided by the actuarial table." If this remains as is, a commenter recommended revising to "and/or" at the end of section 7(d)(1), as both types of apples may be insured.

Response: While section 7(d) may not be strictly necessary, it is provided to clarify the insured crop is not only for all apples in the county, but apples grown for either fresh apple production or processing apple production. The term "and/or" is synonymous with the word "or" which means any combination of two options; one, the other (either), or both. No change has been made.

Section 9—Insurance Period

Comment: A few commenters stated the first sentence of section 9(a)(1) gives the calendar date for the beginning of coverage for the year of application in California only. The second sentence provides the date for all other States, but does not specify this is also only for the year of application, and then goes on to provide an exception that applies to California as well. The commenters recommended revising the language to read something like:

(1) "For the year of application, coverage generally begins:"

"(i) In California, on February 1* * *"

"(ii) In all other States, on November 21* * *"

"However, if your application is received by us after * * *"

Response: FCIC has revised section 9(a)(1) to separate the calendar dates for the beginning of the insurance period for the year of application in California and all other States from the exceptions in California and all other States.

Comment: A commenter stated the reference to "insurance provider" in section 9(a)(2) should be changed to "approved insurance provider".

Response: The term "insurance provider" is consistent with the Basic Provisions and other Crop Provisions. No change has been made.

Comment: A few commenters stated the words "after an inspection" should be removed from section 9(b)(1). If damage has not generally occurred in the area where such acreage is located, the commenters stated it should be up to the insurance provider's discretion to decide whether the acreage needs an inspection to be considered acceptable.

The commenters also stated the last sentence of section 9(b)(1) indicates "There will be no coverage of any insurable interest acquired after the acreage reporting date." The commenters recommended this sentence be changed to allow insurance providers the opportunity to inspect and insure such acreage if they wish to do so. Insurance providers should have the opportunity to accept or deny coverage in these types of situations. This would be similar to what is currently allowed for acreage that is not reported per section 6(f) of the Basic Provisions.

Response: FCIC does not agree with the commenters regarding removal of the phrase "after an inspection." The insurance provider must inspect the acreage to ensure the newly-acquired acreage meets all policy requirements. This requirement is consistent with other perennial Crop Provisions, such as stonefruit, grapes and pears and ensures that only acreage that meets the requirements for coverage is insured. If left to the discretion of the insurance provider, there may be instances where acreage that is not insurable is provided coverage, creating a program integrity vulnerability.

Additionally, section 9(b)(1) is silent regarding allowing insurance providers the opportunity to inspect and insure acreage that was acquired after the acreage reporting date. Therefore, section 6(f) of the Basic Provisions, which allows the insurance providers to determine by unit the insurable crop acreage, share, type and practice, or to deny liability if the producer failed to report all units, has been applied in this situation under other Crop Provisions and would apply here. The provisions in this final rule are consistent with provisions in other Crop Provisions, such as Texas citrus fruit, peaches and pears and to change them here would suggest section 6(f) of the Basic Provisions would not be applicable to these other policies, creating an unnecessary ambiguity. The Crop Insurance Handbook also allows for insurance providers to revise an acreage report that increases liability if the crop is inspected and the appraisal indicates the crop will produce at least 90 percent of the yield used to determine the guarantee or amount of insurance for the unit. No change has been made.

Section 10—Causes of Loss

Comment: A commenter recommended the insured cause of loss in section 10(a)(2) be clarified as "Fire, due to natural causes, * * *" (or "Fire, if caused by lightning, * * *", as in the proposed revisions to the Tobacco Crop Provisions).

Response: FCIC disagrees with the commenter. Revising the insured cause of loss to read "Fire, due to natural causes" is not necessary since section 12 of the Basic Provisions states all insured causes of loss must be due to a naturally occurring event. Further, the Federal Crop Insurance Act also limits coverage to naturally occurring events. To include this requirement for a single cause of loss in the Crop Provisions will only create confusion regarding whether or not the other listed causes must be naturally occurring. FCIC also disagrees with revising the insured cause of loss to read "Fire, if caused by lightning * * *" as in the proposed revisions to the Tobacco Crop Provisions. "Fire, if caused by lightning * * *" was proposed in the Tobacco Proposed Rule. However, due to public comments, the original provision, "Fire," was retained because there are naturally occurring fires caused by other than lightning, such as animals getting stuck in transformers causing sparks to trigger a fire. No change has been made.

Comment: A few commenters recommended adding a comma after the phrase "excess sun causing sunburn" in section 10(a)(9) to separate it from the phrase "and frost and freeze causing russeting."

Response: FCIC has revised the provision accordingly.

Section 12—Settlement of Claim

Comment: A few commenters stated since the proposed rule offers different

coverage levels for fresh and processing, and separate optional units by type, it would be more helpful to have a revised Basic Coverage example that included separate units and different levels for the fresh and processing types instead of this basic example with both types in one basic unit. Additionally, as processing and fresh are two separate types requiring separate APH databases, a commenter questioned the likelihood of each type having the same guarantee. The commenter recommended revising the example to be more reflective of an actual situation.

Response: The claims provisions provide a step by step guide to calculating the indemnity. Claim examples are provided to the Settlement of Claim section to only provide a general illustration. Since it is impossible to address every situation, more detailed instructions are more appropriately provided in the Apple Loss Adjustment Handbook. No change has been made.

Comment: A commenter recommended adding a comma before the phrase "all grading U.S. No. 1 Processing or better" in the second sentence of the Basic Coverage example.

Response: FCIC has revised the provisions accordingly.

Comment: A commenter recommended adding hyphens in "6,000-bushel production guarantee" and "3,000-bushel production guarantee" in paragraphs (A) and (B) of the Basic Coverage Example.

Response: FCIC has revised the provisions accordingly.

Comment: A commenter stated the proposed section 12(d), which states "any apple production not graded prior to sale or storage will be considered as production to count" is not practical based on the lack of USDA licensed graders in many apple growing areas. Production sold from one producer to another is very common as well as roadside stands that sell directly to the consumer. Implementation of this new language will provide an unfair burden on the producer.

Response: The policy provides coverage for fresh and processing apples. There is no way to know whether an apple is a fresh apple unless it is graded. Further, failure to grade the apples will result in producers grading their own and there is no way to prevent them from reducing the grade to collect an indemnity. There must be an independent third party establishing the grade of the apple. For policyholders who sell production by direct marketing (i.e., one producer to another, roadside stands, etc.), section 11(b) of the Apple Crop Provisions requires notice of loss be given at least 15 days before any production will be sold by direct marketing so an appraisal can be made by the insurance provider. If damage occurs after this appraisal, an additional appraisal will be made. The appraisals and any acceptable production records will be used to determine production to count. Since insurance is provided for direct marketed crops, and there may not be any verifiable records associated with such sales, this provision is necessary to more accurately determine production to count. FCIC has revised section 12(d) to clarify a policyholder must either have an appraisal or have their production graded prior to sale or storage in response to another comment. No change has been made.

Comment: A commenter recommended in section 12(d) either deleting the comma after " * * * placed in storage * * * " or adding a matching comma after " * * * or other handler * * * " at the end of that set-off phrase.

Response: FCIC has removed the comma after the phrase "placed in storage" in sections 12(d) and 14(c).

Section 14—Optional Coverage for Fresh Fruit Quality Adjustment

Comment: A commenter recommended quality adjustment for processing fruit, because the industry standard for processing fruit in North Carolina is U.S. #1 not U.S. #1 Processing. A commenter requested FCIC allow North Carolina producers to purchase the quality adjustment option for any processed apples that meet U.S. Grade A apple standards.

Response: Since the recommended changes were not proposed, and the public was not provided an opportunity to comment, the recommendation cannot be incorporated in the final rule. No change has been made.

Comment: A few commenters stated the background section of the proposed rule states the intended effects of this policy are to clarify existing policy provisions to better meet the needs of producers, to reduce vulnerability to program fraud, waste, and abuse, and to simplify program administration. However, the language concerning the Optional Coverage for Fresh Fruit Quality Adjustment is so unclear and contradictory that producers and insurance providers will likely incur many hours in arbitration. This happens when the policy language is vague and alludes to issues that are then totally changed via the Apple Loss Adjustment Standards Handbook (LASH) and informational memorandums after the policy has been finalized and issued to the policyholders. This provides no opportunity for the apple producers to comment on the procedure because these procedures are not a part of the proposed rule. The intent of the policy language needs to be clearly spelled out in the final version of the Apple Crop Insurance Provisions so as to reduce the amount of clarification that needs to be made later in the Apple LASH or informational memorandums.

Response: FCIC has made the policy as clear as possible. However, without specifying particular provisions that the commenter believes are ambiguous, FCIC is not able to adequately respond to make changes to the provisions. No change has been made.

Comment: A commenter suggested going back to the old policy with quality adjustment on frost, freeze, or hail. The commenter also stated if FCIC would keep the current policy as is with the causes of loss the same and does away with the sliding scale, it would be fair to all involved. If a producer has a claim of 65 percent, it should stand at 65 percent; that way the producer would have their 35 percent of fresh apple production to count back and it wouldn't automatically go to a 100 percent loss. The commenter stated this would be fair to the producers, insurance companies, and government.

Response: Since the recommended changes were not proposed, and the public was not provided an opportunity to comment, the recommendation cannot be incorporated in the final rule. No change has been made.

Comment: A few commenters stated the background section of the proposed rule indicates a proposed revision "to specify insureds who select the Optional Coverage for Fresh Fruit Quality Adjustment cannot receive less than the indemnity due under section 12." However, no actual proposed language was provided in the proposed rule. The commenters questioned whether the public would be given an opportunity to review a draft of these proposed revisions.

Response: The proposed language to replace the second sentence of section 14(a) was in the amendatory language of the proposed rule with request for comments. The amendatory language, which preceded the regulatory text in the proposed rule, stated "n. Amend section 14(a) by adding at the end of the paragraph the following sentence, 'Insureds who select this option cannot receive less than the indemnity due under section 12.' "

Comment: A few commenters stated the background indicates the proposed change in section 14(b)(4) is "to clarify production to count under the Optional Coverage for Fresh Fruit Quality Adjustment will include all appraised

and harvested production from all of the fresh apple acreage in the unit." This revision deletes the reference to production "that grades at least U.S. No. 1 Processing, adjusted in accordance with this option." The commenters questioned whether the intention is to count harvested *unmarketable* production, or should this specify "all appraised and harvested marketable production."

Response: For the purposes of section 14(b)(4), production to count should be all apples on the tree (i.e., unmarketable and marketable). FCIC has added the phrase "adjusted in accordance with this option" back to the provisions in section 14(b)(4) to clarify the production to count in section 14(b)(4) is adjusted in accordance with section 14(b)(5) for the purposes of the Optional Coverage for Fresh Fruit Quality Option. Therefore, any apples that are unmarketable will be removed from the production to count in the loss adjustment under section 14. No change has been made.

Comment: A commenter stated as currently written in sections 14(b)(4) and 14(b)(5)(v), in a situation where an insured has elected the option, but also has processing apples in the same unit; if the production from the processing acreage is sold as U.S. Fancy, it is not counted as production to count under the Optional Coverage for Fresh Fruit Quality Adjustment and valued at the fresh apple production price.

Response: If the acreage was designated as processing apple acreage on the acreage report and the apple production was subsequently sold as U.S. Fancy or better, it would not be considered production to count under the Optional Coverage for Fresh Fruit Quality Adjustment because processing apples are not covered under section 14. However, the sold production would be counted as production to count under section 12 of the Apple Crop Provisions and would be valued at the processing apple production price. No change has been made.

Comment: A few commenters stated the phrase "within the applicable unit" in section 14(b)(5) may be subject to misinterpretation. It appears the intent of these added words are meant to clarify the Optional Coverage for Fresh Fruit Quality Adjustment is administered on a unit basis, however this new language could be misinterpreted. The procedures outlined in the Apple LASH require the field grading to be done by variety, by block, or by unit, as applicable, and then total each individual production to count to determine the production to count for the unit.

For example, a producer may have 10 acres of Goldens and 50 acres of Reds within a unit. Assume a hail storm damaged the Goldens resulting in a 50 percent loss and the Reds only incurred a 10 percent loss. It would seem to be the intent the reduction would apply to the Goldens to determine the production to count for the Goldens. The Reds would not qualify as they do not meet the 20 percent damage deductible, and all the Reds would count as production to count. The wording that says "within the applicable unit is damaged to the extent that more than 20 percent" could lead one to assume in this example the overall unit did not sustain 20 percent damage, and no quality adjustment would apply. Another example would be if producers harvested 80 percent of their acreage prior to a hail storm, and then the storm came along and totaled the remaining 20 percent of the acreage. The commenters assumed the intent is that the loss adjuster would do a field grade on the remaining acreage even though less than 20 percent damage was sustained on a unit basis. The language, as proposed, might lead one to assume loss adjusters would, instead, say no adjustment is made because the producers have not incurred 20 percent damage across the whole unit. In order to eliminate this confusion, the commenters recommended the words 'within the applicable unit' not be added to this section. This language needs to be clarified so it is clear how this section of the policy is intended to be applied.

Response: FCIC agrees the proposed language could be subject to misinterpretation and has revised the provision to refer to "for the block or unit, as applicable." In accordance with the Apple LASH, separate appraisals are required for each block within a unit and adjusted in accordance with section 14. The adjusted production to count from each block is added together to determine the total adjusted production to count for the unit.

Comment: A few commenters stated the proposed rule does not amend sections 14(b)(5)(i) through (iv). However, FCIC should revisit the adjustments in the current Apple Crop Provisions and the Apple LASH to determine whether the current salvage values merit reconsideration.

Response: If the commenters have any recommendations, they can provide such information to FCIC for consideration at a future date. FCIC is willing to work with any interested parties to revisit the provisions in section 14(b)(5)(i) through (iv). No change has been made.

Comment: Several comments were received regarding section 14(b)(5)(v). A commenter stated section 14(b)(5)(v) has been the most significant concern of insurance providers and policyholders and should be deleted as there are numerous other crop policies that allow similar deductions for extensive damage amounts and/or poor quality, etc., such that the production to count on the claim is reduced in excess of the actual monetary reductions to the producer. If section 14(b)(5)(v) remains in effect as written, FCIC should stop implying it is not their intent for insurance providers to keep claims open until production in storage was removed and then sold. Unless an insurance provider truly waits until all of the unit production is sold, they will not know the amount of production that was sold as U.S. Fancy or better.

A few commenters stated the language in section 14(b)(5)(v) that was inserted into the Apple Crop Provisions (after the proposed rule) for the 2005 crop year has been so problematic that the Apple LASH was revised numerous times, and informational memorandums issued and then incorporated into the Apple LASH long after the Apple Crop Provisions were published as a final rule and policies were sold to producers. Exhibit 2 of the Apple LASH has created a procedure whereby the insurance provider must use the greater of the production that is sold as fancy or better, or the amount of production that was determined as production to count in the field. However, this language is nowhere to be found in the 2005 Apple Crop Insurance Provisions or in this proposed rule for the 2011 crop year provisions. Instead, there is conflicting language with no explanation of how it is to be administered.

The commenters stated in order to determine what is "sold as fancy or better" and to comply with section 14(b)(5)(v), the insurance provider would need to wait to receive the pack-out. However, the example in the proposed rule makes no mention of waiting for the pack-out to see what is sold as fancy for a comparison. The example deals with the number of bushels "harvested" and number of bushels that don't grade fancy or better based on the field grade and the damage chart, AND NOT FROM THE PACK–OUT. The proposed rule even states in section 14(c): "Any apple production not graded prior to the earlier of the time apples are placed in storage, or the date the apples are delivered to a packer, processor, or other handler, will not be considered damaged apple production and will be considered production to count under this option."

Since it is not possible for the warehouse to grade and sell all the fruit the day it is delivered, one would need to presume the pack-out should not apply ever at any time.

The commenters recommended section 14(b)(5)(v) be removed and the language in the Optional Coverage for Fresh Fruit Quality Adjustment be made simple, clear, and fair. If section 14(b)(5)(v) was removed, all the confusing and contradictory language in the Apple LASH could also be removed. The producers who elect this option pay a substantial price for this coverage. It was designed to increase the claim payment when there is a significant amount of damage because of the added expense of dealing with a highly damaged crop. The removal of section 14(b)(v) would give the producer freedom to decide whether: to try to salvage some of the good fruit; to deliver it to a juicer or processor; or to leave it unharvested. Producers should not be penalized for trying to salvage their crop. It is unreasonable for FCIC to penalize producers for attempting to salvage a part of their crop.

Another commenter recommended section 14(b)(5)(v) either be removed or modified since it requires insurance providers to keep a claim open until final disposition of the fruit (for policies with the quality option), which can often take 12–13 months.

Response: FCIC has the legal authority to only cover a loss of production or a reduction in price received due to an insured cause of loss. Section 14(b)(5)(v) cannot be removed because if the policyholder harvests apples that are undamaged and sells them as fresh apples and receives at least the expected market price, those apples must be counted as production to count. FCIC has a responsibility to ensure policyholders only receive the amount of indemnity to which they are entitled. Since the amount of sold production is included as production to count, the insurance provider must establish the value of the sold production based on the sales records when the crop is sold. FCIC understands that this can result in a delay in the claim. However, FCIC does not know of any other means to account for production that is actually sold as U.S. Fancy or better. If the commenters have any specific recommendations to address this issue, they can provide such information to FCIC for consideration at a future date. FCIC is willing to work with any interested parties to revisit the provisions in section 14(b)(v) to improve the Optional Coverage for Fresh Fruit Quality Adjustment. No change has been made.

Comment: A commenter suggested the addition of the words "or appraised" to the first sentence of the new section 14(c), to read; "Any apple production not graded *or appraised* prior to the time." The reason for the suggested change is when apples are placed in storage, the insurance coverage ends, and this could be confusing and unclear to producers experiencing losses that result in claims. The commenter's proposal helps clarify the claim procedure by specifically noting producers with a potential loss claim must either have an appraisal or have their production graded prior to placement in storage.

Response: FCIC has revised the provisions in sections 12(d) and 14(c) accordingly.

Comment: A few commenters recommended either deleting the comma after the phrase "placed in storage" or adding a matching comma after the phrase "or other handler" at the end of that set-off phrase in section 14(c).

Response: As stated above, FCIC has removed the comma after the phrase "placed in storage" in sections 12(d) and 14(c).

Comment: A few commenters recommended, identifying the example in section 14 as an "Optional Coverage for Fresh Fruit Quality Adjustment example" for clarity. The commenters also recommended adding hyphens in the phrase "6,000-bushel production guarantee". The commenters also recommended considering whether it is necessary to have "[END OF EXAMPLE]" when this is the end of the Apple Crop Provisions (no other policy provisions following the example).

Response: FCIC has revised the provisions accordingly.

Comment: A few commenters stated the example in section 14 shows the bushels of fruit that grade U.S. Fancy or better with an adjustment made on production to count based upon this grade. It should be clarified in the example that in addition to the grading, if the producer sells (X) amount of bushels at U.S. Fancy or better these will or will not be adjusted based upon the percentage that grade U.S. Fancy of better. It would reduce the confusion since there is an adjustment used in the appraisal process based upon the percentage that grade U.S. Fancy or better and producers do not understand what percentage is used in the indemnity process using production sold as US Fancy or better. Again, this information should be contained in the policy language as well as this example. For example, for a farm that has 25 percent of the production that grades US Fancy it would be considered zero production to count of a full indemnity. If the producer can pack this fruit and he packs out 20 percent US Fancy, those bushels are currently taken off the claim. This action needs to be made clear in the provisions. A few commenters stated the example in section 14 shows 5,000 bushels harvested and 2,350 bushels not grading fancy or better. The example then goes on to show 47 percent actual damage equates to 61 percent actual damage and the example then shows the claim paid based on 39 percent production to count, which equals 1,950 bushels. However, if the producer has delivered the production to the warehouse, packed the fruit, and the pack-out shows the exact amount of actual damage as the field adjustment, 53 percent of the fruit would pack-out as U.S. Fancy or better. Therefore, the greater of the production to count would be 2,650. However, the example does not show this to be the case. It shows the production to count to be 1,950 bushels. There is no language about waiting for the pack-out and using the greater of the production to count from the field appraisal or the amount of apples sold as fancy or better.

Response: FCIC has revised the Optional Coverage for Fresh Fruit Quality Adjustment Example in section 14 to clarify it provides only a general explanation of how the indemnity payment would be calculated in accordance with section 14 assuming the producer did not sell any of their fresh apple production as U.S. Fancy.

In addition to the changes described above, FCIC has revised section 12(b)(2), section 12(b)(4), the Basic Coverage Example, and the Optional Coverage for Fresh Fruit Quality Adjustment Example to address the applicability of the percent of price election.

Good cause is shown to make this rule effective less than 30 days after publication in the **Federal Register**. Good cause to make a rule effective less than 30 days after publication in the **Federal Register** exists when the 30-day delay in the effective date is impracticable, unnecessary, or contrary to the public interest.

With respect to the provisions of this rule, it would be contrary to public interest to delay implementation because public interest is served by improving the insurance product as follows: (1) Increasing insurance flexibility by providing for separate by type; (2) allowing different coverage levels for all fresh apple acreage in the county and for all processing apple acreage in the county; and (3) providing

simplification and clarity to the apple crop insurance program.

If FCIC is required to delay the implementation of this rule 30 days after the date it is published, the provisions of this rule could not be implemented until the 2012 crop year. This would mean the affected producers would be without the benefits described above for an additional year.

For the reasons stated above, good cause exists to make these policy changes effective less than 30 days after publication in the **Federal Register**.

List of Subjects in 7 CFR Part 457

Crop insurance, Apple, Reporting and recordkeeping requirements.

Final Rule

■ Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR part 457 effective for the 2011 and succeeding crop years as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 1. The authority citation for 7 CFR Part 457 is revised to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(o).

■ 2. Amend § 457.158 as follows:
■ a. Revise the introductory text;
■ b. Remove the paragraph immediately preceding section 1;
■ c. Add definitions in section 1 for "fresh apple production" and "processing apple production;" remove the definitions of "fresh apples," "lot," "processing apples," and "varietal group;" revise the definitions of "apple production" and "type;" and amend the definition of "damaged apple production" by removing the phrase ", within each lot, bin, bushel, or box, as applicable," from both paragraphs (1) and (2);
■ d. Revise section 2(b);
■ e. Amend section 3 by redesignating paragraphs (a), (b), and (c) as (b), (c), and (d) respectively, and adding a new paragraph (a);
■ f. Revise redesignated sections 3(c)(1) and 3(d);
■ g. Revise section 5(b);
■ h. Revise section 6;
■ i. Amend section 7(b)(1) by removing the word "or" after the semicolon at the end;
■ j. Amend section 7(b)(3) by removing the word "and" after the semicolon at the end;
■ k. Amend section 7(c) by removing the period at the end and replacing it with "; and";
■ l. Add a new section 7(d);
■ m. Revise section 9(a)(1);
■ n. Amend section 10(a)(9) by adding a comma after the phrase "excess sun causing sunburn";
■ o. Amend section 11 by redesignating paragraphs (a), (b), and (c) as (1), (2), and (3) respectively, redesignating the introductory text as paragraph (b), and adding a new paragraph (a);
■ p. Revise sections 12(b)(2) and 12(b)(4);
■ q. Revise the Basic Coverage Example in section 12 and move it to follow section 12(b)(7);
■ r. Revise section 12(d);
■ s. Amend section 14(a) by adding at the end of the paragraph the following sentence, "Insureds who select this option cannot receive less than the indemnity due under section 12.";
■ t. Amend section 14(b)(3) by removing the phrase "fresh apples" and adding the phrase "fresh apple production" in its place and removing the phrase "processing apples" and adding the phrase "processing apple production" in its place;
■ u. Revise section 14(b)(4);
■ v. Revise section 14(b)(5) introductory text;
■ w. Amend section 14(b)(5) (i), (ii), and (iii) by adding the word "one" after the phrase "percent for each full";
■ x. Amend section 14(b)(5)(v) by adding the phrase "or better" after the phrase "if you sell any of your fresh apple production as U.S. Fancy";
■ y. Add new sections 14(c) and (d) before the Optional Coverage for Fresh Fruit Quality Adjustment Example; and
■ z. Revise the Optional Coverage for Fresh Fruit Quality Adjustment Example.

The revised and added text reads as follows:

§ 457.158 Apple crop insurance provisions.

The apple crop insurance provisions for the 2011 and succeeding crop years are as follows:

* * * * *

1. Definitions.

Apple production. All fresh apple production and processing apple production from insurable acreage.

* * * * *

Fresh apple production. (1) Apples:

(i) That are sold, or could be sold, for human consumption without undergoing any change in the basic form, such as peeling, juicing, crushing, etc.;

(ii) From acreage that is designated as fresh apples on the acreage report;

(iii) That follow the recommended cultural practices generally in use for fresh apple acreage in the area in a manner generally recognized by agricultural experts; and

(iv) From acreage that you certify, and, if requested by us provide verifiable records to support, that at least 50 percent of the production from acreage reported as fresh apple acreage from each unit, was sold as fresh apples in one or more of the four most recent crop years.

(2) Acreage with production not meeting all the requirements above must be designated on the acreage report as processing apple production.

* * * * *

Processing apple production. Apples from insurable acreage failing to meet the insurability requirements for fresh apple production that are:

(1) Sold, or could be sold for the purpose of undergoing a change to the basic structure such as peeling, juicing, crushing, etc.; or

(2) From acreage designated as processing apples on the acreage report.

* * * * *

Type. A category of apples as designated in the Special Provisions.

2. Unit Division.

* * * * *

(b) By type as specified in the Special Provisions.

* * * * *

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities.

* * * * *

(a) You may select only one coverage level for all fresh apple acreage and only one coverage level for all processing apple acreage. For example, if you choose the 55 percent coverage level for all your fresh apple acreage (*i.e.,* fresh, varietal group types), you may choose the 75 percent coverage level for all your processing apple acreage. However, if you elect the Catastrophic Risk Protection (CAT) level of insurance for fresh apple acreage or processing apple acreage, the CAT level of coverage will be applicable to all insured apple acreage in the county. If you only have fresh apple acreage designated on your acreage report and processing apple acreage is added after the sales closing date, we will assign a coverage level equal to the coverage level you selected for your fresh apple acreage. If you only have processing apple acreage designated on your acreage report and fresh apple acreage is added after the sales closing date, we will assign a coverage level equal to the coverage level you selected for your processing apple acreage.

* * * * *

(c) * * *

(1) Any event or action that could impact the yield potential of the insured

crop including interplanted perennial crop, removal of trees, any damage, change in practices, or any other circumstance that may reduce the expected yield upon which the insurance guarantee is based, and the number of affected acres;

* * * * *

(d) We will reduce the yield used to establish your production guarantee, as necessary, based on our estimate of the effect of any situation listed in sections 3(c)(1) through (c)(4). If the situation occurred:

(1) Before the beginning of the insurance period, the yield used to establish your production guarantee will be reduced for the current crop year regardless of whether the situation was due to an insured or uninsured cause of loss. If you fail to notify us of any circumstance that may reduce your yields from previous levels, we will reduce the yield used to establish your production guarantee at any time we become aware of the circumstance;

(2) Or may occur after the beginning of the insurance period and you notify us by the production reporting date, the yield used to establish your production guarantee will be reduced for the current crop year only if the potential reduction in the yield used to establish your production guarantee is due to an uninsured cause of loss; or

(3) Or may occur after the beginning of the insurance period and you fail to notify us by the production reporting date, production lost due to uninsured causes equal to the amount of the reduction in the yield used to establish your production guarantee will be applied in determining any indemnity (*see* section 12(c)(1)(ii)). We will reduce the yield used to establish your production guarantee for the subsequent crop year.

* * * * *

5. Cancellation and Termination Dates.

* * * * *

(b) If, in accordance with the terms of the policy, your apple policy is canceled or terminated by us for any crop year after insurance attached for that crop year, but on or before the cancellation and termination dates, whichever is later, insurance will be considered not to have attached for that crop year and no premium, administrative fee, or indemnity will be due for such crop year.

* * * * *

6. Report of Acreage.

In addition to the requirements contained in section 6 of the Basic Provisions, you must report and designate all acreage by type by the acreage reporting date. Any acreage not qualifying for fresh apple production is not eligible for the Optional Coverage for Fresh Fruit Quality Adjustment option contained in section 14 of these Crop Provisions. If you designate fresh apple acreage on the acreage report, you are certifying at least 50 percent of the production from acreage reported as fresh apple acreage, by unit, was sold as fresh apples in one or more of the four most recent crop years in accordance with the definition of "fresh apple production" and that you have the records to support such production.

7. Insured Crop.

* * * * *

(d) That are grown for:

(1) Fresh apple production; or

(2) Processing apple production.

* * * * *

9. Insurance Period.

(a) * * *

(1) For the year of application, coverage begins on February 1 of the calendar year the insured crop normally blooms in California and November 21 of the calendar year prior to the calendar year the insured crop normally blooms in all other States. Notwithstanding the previous sentence, if your application is received by us after January 12 but prior to February 1 in California, or after November 1 but prior to November 21 in all other States, insurance will attach on the 20th day after your properly completed application is received in our local office, unless we inspect the acreage during the 20-day period and determine that it does not meet insurability requirements. You must provide any information that we require for the crop or to determine the condition of the apple acreage.

* * * * *

11. Duties In the Event of Damage or Loss.

(a) In accordance with the requirements of section 14 of the Basic Provisions, you must leave representative samples in accordance with our procedures.

* * * * *

12. Settlement of Claim.

* * * * *

(b) * * *

(1) * * *

(2) Multiplying each result in section 12(b)(1) by the respective price election and by the percent of price election;

* * * * *

(4) Multiplying the total production to count (see section 12(c)), for each type as applicable, by the respective price election and by the percent of price election;

* * * * *

(7) * * *

Basic Coverage Example:

You have a 100 percent share in one basic unit with 10 acres of fresh apples and 5 acres of processing apples designated on your acreage report, with a 600 bushel per acre production guarantee for both fresh and processing apples, and you select 100 percent of the price election on a price election of $9.10 per bushel for fresh apples and $2.50 per bushel for processing apples. You harvest 5,000 bushels of fresh apples and 1,000 bushels of processing apples, all grading U.S. No. 1 Processing or better. Your indemnity will be calculated as follows:

A. 10 acres × 600 bushels = 6,000-bushel production guarantee of fresh apples;

5 acres × 600 bushels = 3,000-bushel production guarantee of processing apples;

B. 6,000-bushel production guarantee × $9.10 price election × 100 percent of price election = $54,600 value of production guarantee for fresh apples;

3,000-bushel production guarantee × $2.50 price election × 100 percent of price election = $7,500 value of production guarantee for processing apples;

C. $54,600 value of production guarantee for fresh apples + $7,500 value of production guarantee for processing apples = $62,100.00 total value of the production guarantee;

D. 5,000 bushels of fresh apple production to count × $9.10 price election × 100 percent of price election = $45,500 value of fresh apple production to count;

1,000 bushels of processing apple production to count × $2.50 price election × 100 percent of price election = $2,500 value of processing apple production to count;

E. $45,500 value of fresh apple production to count + $2,500 value of processing apple production to count = $48,000 total value of production to count;

F. $62,100 total value of the production guarantee − $48,000 total value of production to count = $14,100.00 value of loss; and

G. $14,100 value of loss × 100 percent share = $14,100 indemnity payment.

[END OF EXAMPLE]

* * * * *

(d) Any apple production not graded or appraised prior to the earlier of the time apples are placed in storage or the date the apples are delivered to a packer, processor, or other handler will not be considered damaged apple production and will be considered production to count.

* * * * *

14. Optional Coverage for Fresh Fruit Quality Adjustment.

* * * * *

(b) * * *

(4) In lieu of sections 12(c)(1)(iii), (iv) and (2), the production to count will include all appraised and harvested production from all of the fresh apple acreage in the unit, adjusted in accordance with this option.

(5) If appraised or harvested fresh apple production for the block or unit,

as applicable, is damaged to the extent that more than 20 percent of the apple production does not grade U.S. Fancy or better the following adjustments to the production to count will apply:

* * * * *

(c) Any apple production not graded or appraised prior to the earlier of the time apples are placed in storage or the date the apples are delivered to a packer, processor, or other handler will not be considered damaged apple production and will be considered production to count under this option.

(d) Any adjustments that reduce your production to count under this option will not be applicable when determining production to count for APH purposes.

Optional Coverage for Fresh Fruit Quality Adjustment Example:

You have a 100 percent share in 10 acres of fresh apples designated on your acreage report, with a 600 bushel per acre guarantee, and you select 100 percent of the price election on a price election of $9.10 per bushel. You harvest 5,000 bushels of apples from your designated fresh apple acreage, but only 2,650 of those bushels grade U.S. Fancy or better. Assuming you do not sell any of your fresh apple production as U.S. Fancy or better, your indemnity would be calculated as follows:

A. 10 acres × 600 bushels per acre = 6,000-bushel production guarantee of fresh apples;

B. 6,000-bushel production guarantee of fresh apples × $9.10 price election × 100 percent of price election = $54,600 value of production guarantee for fresh apple acreage;

C. The value of the fresh apple production to count is determined as follows:

i. 5,000 bushels harvested − 2,650 bushels that graded U.S. Fancy or better = 2,350 bushels of fresh apple production not grading U.S. Fancy or better;

ii. 2,350/5,000 = 47 percent of fresh apple production not grading U.S. Fancy or better;

iii. In accordance with section 14(b)(5)(ii): 47 percent − 40 percent = 7 percent in excess of 40 percent;

iv. 7 percent × 3 = 21 percent;

v. 40 percent + 21 percent = 61 percent;

vi. 5,000 bushels harvested × .61 (61 percent) = 3,050 bushels of fresh apple production not grading U.S. Fancy or better;

vii. 5,000 bushels harvested − 3,050 bushels of fresh apple production not grading U.S. Fancy or better = 1,950 bushels of adjusted fresh apple production to count;

viii. 1,950 bushels of adjusted fresh apples production to count × $9.10 price election × 100 percent of price election = $17,745 value of fresh apple production to count;

D. $54,600 value of production guarantee for fresh apples − $17,745 value of fresh apple production to count = $36,855 value of loss;

E. $36,855 value of loss × 100 percent share = $36,855 indemnity payment.

* * * * *

Signed in Washington, DC, on August 16, 2010.

William J. Murphy,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 2010–20619 Filed 8–24–10; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0482; Directorate Identifier 2009–NM–225–AD; Amendment 39–16411; AD 2010–17–17]

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 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:

There have been several Stick Pusher Capstan Shaft failures causing severe degradation of the stick pusher function. This directive is issued to revise the first flight of the day check of the stall protection system to detect degradation of the stick pusher function. It also introduces a new repetitive maintenance task to limit exposure to dormant failure of the stick pusher capstan shaft.

Dormant loss or severe degradation of the stick pusher function 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 September 29, 2010.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of September 29, 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: Bruce Valentine, Avionics and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7328; 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 June 3, 2010 (75 FR 31324). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

There have been several Stick Pusher Capstan Shaft failures causing severe degradation of the stick pusher function. This directive is issued to revise the first flight of the day check of the stall protection system to detect degradation of the stick pusher function. It also introduces a new repetitive maintenance task to limit exposure to dormant failure of the stick pusher capstan shaft.

Dormant loss or severe degradation of the stick pusher function 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. Air Line Pilots Association, International supports the NPRM.

Conclusion

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

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use

different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

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

Costs of Compliance

We estimate that this AD will affect 601 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $51,085, or $85 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–17–17 Bombardier, Inc.: Amendment 39–16411. Docket No. FAA–2010–0482; Directorate Identifier 2009–NM–225–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective September 29, 2010.

Affected ADs

(b) None.

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 through 7990 inclusive, and 8000 and subsequent.

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

Subject

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

Reason

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

There have been several Stick Pusher Capstan Shaft failures causing severe degradation of the stick pusher function. This directive is issued to revise the first flight of the day check of the stall protection system to detect degradation of the stick pusher function. It also introduces a new repetitive maintenance task to limit exposure to dormant failure of the stick pusher capstan shaft.

Dormant loss or severe degradation of the stick pusher function could result in reduced controllability 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) Do the following actions.

(1) Within 30 days after the effective date of this AD, revise the Limitations section of the Canadair Regional Jet Airplane Flight Manual (AFM) CSP A–012 to include the information in Canadair Regional Jet Temporary Revision (TR) RJ/178–1, dated March 8, 2010; as specified in the TR. The Canadair Regional Jet TR RJ/178–1, dated March 8, 2010, introduces procedures for performing a stall protection system test. Operate the airplane according to the limitations and procedures in the Canadair Regional Jet TR RJ/178–1, dated March 8, 2010.

Note 2: This may be done by inserting a copy of Canadair Regional Jet TR RJ/178–1, dated March 8, 2010, into the Canadair Regional Jet AFM CSP A–012. When this Canadair Regional Jet TR has been included in general revisions of the Canadair Regional Jet AFM, the general revisions may be inserted in the Canadair Regional Jet AFM, provided the relevant information in the general revision is identical to that in the Canadair Regional Jet TR.

(2) Within 30 days after the effective date of this AD, revise Appendix A—Certification Maintenance Requirements of Part 2 of the Bombardier CL–600–2B19 Maintenance Requirements Manual (MRM) by incorporating the information in Bombardier TR 2A–43, dated May 7, 2008; as specified in Bombardier TR 2A–43. The initial compliance time for the new MRM task identified in Bombardier TR 2A–43 is at the later of the times specified in paragraphs (g)(2)(i) and (g)(2)(ii) of this AD. Thereafter, except as provided by paragraph (h)(1) of this AD, no alternative task intervals may be used. Bombardier TR 2A–43, dated May 7, 2008, introduces procedures for a function check of the stick pusher capstan.

(i) Prior to the accumulation of 5,000 total flight hours.

(ii) Within 500 flight hours after the effective date of this AD.

Note 3: The actions required by paragraph (g)(2) of this AD may be done by inserting a copy of Bombardier TR 2A–43, dated May 7, 2008, into Appendix A—Certification Maintenance Requirements of Part 2 of the Bombardier CL–600–2B19 MRM. When this Bombardier TR has been included in general revisions of the Bombardier CL–600–2B19 MRM, the Bombardier CL–600–2B19 TR may be removed from the MRM, provided the relevant information in the general revision is identical to that in Bombardier CL–600–2B19 TR 2A–43, dated May 7, 2008.

FAA AD Differences

Note 4: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

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

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

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

(4) Special Flight Permits: We are not allowing special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199).

Related Information

(i) Refer to MCAI Canadian Airworthiness Directive CF–2009–36, dated September 2, 2009; Bombardier CL–600–2B19 TR 2A–43, dated May 7, 2008, to Appendix A—Certification Maintenance Requirements of Part 2 of the Bombardier CL–600–2B19 MRM; and Canadair Regional Jet TR RJ/178–1, dated March 8, 2010, to the Canadair Regional Jet AFM CSP A–012; for related information.

Material Incorporated by Reference

(j) You must use Bombardier Temporary Revision (TR) 2A–43, dated May 7, 2008, to Appendix A—Certification Maintenance Requirements of Part 2 of the Bombardier CL–600–2B19 Maintenance Requirements Manual; and Canadair Regional Jet TR RJ/178–1, dated March 8, 2010, to the Canadair Regional Jet Airplane Flight Manual CSP A–012; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

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

Issued in Renton, Washington, on August 12, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–20487 Filed 8–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0523; Directorate Identifier 2010–CE–018–AD; Amendment 39–16407; AD 2010–17–15]

RIN 2120–AA64

Airworthiness Directives; Hawker Beechcraft Corporation (Type Certificate No. A00010WI Previously Held by Raytheon Aircraft Company) Model 390 Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Hawker Beechcraft Corporation Model 390 airplanes. This AD requires you to inspect for installation of certain serial number (S/N) starter generators and replace the starter generator if one with an affected serial number is found. This AD results from reports that starter generators with deficient armature insulating materials may have been installed on certain airplanes. We are issuing this AD to detect and replace starter generators with defective armature insulating materials. This condition could result in the loss of operation of one or both starter generators with consequent loss of all non battery electrical power.

DATES: This AD becomes effective on September 29, 2010.

On September 29, 2010, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: For service information identified in this AD, contact Hawker Beechcraft Corporation, 9709 East Central, Wichita, Kansas 67201; telephone: (316) 676–5034; fax: (316) 676–6614; Internet: *https://www.hawkerbeechcraft.com/service_support/pubs/.*

To view the AD docket, go to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or on the Internet at *http://www.regulations.gov.* The docket number is FAA–2010–0523; Directorate Identifier 2010–CE–018–AD.

FOR FURTHER INFORMATION CONTACT: Kevin Schwemmer, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4174; fax: (316) 946–4107; e-mail: *kevin.schwemmer@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On May 14, 2010, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain serial number starter generators where deficient armature insulating materials may have been installed on Hawker Beechcraft Corporation Model 390 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on May 21, 2010 (FR 75 28506). The NPRM proposed to detect and replace starter generators with deficient armature insulating materials. This condition could result in the loss of operation of one or both starter

generators with consequent loss of all non battery electrical power.

Comments

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

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial corrections. We have determined that these minor corrections:

- are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- do not add any additional burden upon the public than was already proposed in the NPRM.

Costs of Compliance

We estimate that this AD affects 213 airplanes in the U.S. registry.

We estimate the following costs to do the inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
.5 work-hour × $85 per hour = $42.50	Not applicable	$42.50	$9,052.50

We estimate the following costs to do any necessary replacements that would be required based on the results of the inspection. We have no way of determining the number of airplanes that may need this replacement:

Labor cost	Parts cost	Total cost per airplane
10 work-hours (5 work-hours per side) × $85 per hour = $850	$4,069 per side = $8,138	$8,988

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 AD.

Regulatory Findings

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

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

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

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

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

We prepared a summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include "Docket No. FAA–2010–0523; Directorate Identifier 2010–CE–018–AD" in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–17–15 Hawker Beechcraft Corporation (Type Certificate No. A00010WI Previously Held By Raytheon Aircraft Company): Amendment 39–16407; Docket No. FAA–2010–0523; Directorate Identifier 2010–CE–018–AD.

Effective Date

(a) This AD becomes effective on September 29, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model 390 airplanes, serial numbers RB–4 through RB–257, RB–259 through RB–265, RB–268, and RB–269, that are certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 24: Electric Power.

Unsafe Condition

(e) This AD results from reports that starter generators with deficient armature insulating materials may have been installed on certain airplanes. We are issuing this AD to detect and replace starter generators with deficient armature insulating materials. This condition could result in the loss of operation of one or both starter generators with consequent loss of all non-battery electrical power.

Compliance

(f) To address this problem, you must do the following, unless already done:

Actions	Compliance	Procedures
(1) Inspect both starter generators for a starter generator with an affected serial number.	Within the next 25 hours time-in-service (TIS) after September 29, 2010 (the effective date of this AD).	Follow Hawker Beechcraft Mandatory Service Bulletin SB 24–3963, dated May 2009; and AMETEK Advanced Industries, Inc. Mandatory Service Bulletin—Number: 2009–0414, dated April 2009.
(2) If only one suspect starter generator with an affected serial number is found on the airplane during the inspection required in paragraph (f)(1) of this AD, replace the starter generator.	Replace the starter generator at whichever of the following times occurs first after the inspection where the affected starter generator is found: (i) Within the next 200 hours TIS; (ii) The next scheduled inspection; or (iii) Within the next 6 months.	Follow Hawker Beechcraft Mandatory Service Bulletin SB 24–3963, dated May 2009; and AMETEK Advanced Industries, Inc. Mandatory Service Bulletin—Number: 2009–0414, dated April 2009.
(3) If two starter generators with an affected serial number are found during the inspection required in paragraph (f)(1) of this AD, replace both starter generators.	Replace one starter generator within the next 25 hours TIS after the inspection where the affected starter generator was found. Replace the second starter generator at whichever of the following times occurs first after the inspection where the affected starter generator is found: (A) Within the next 200 hours TIS; (B) The next scheduled inspection; or (C) Within the next 6 months.	Follow Hawker Beechcraft Mandatory Service Bulletin SB 24–3963, dated May 2009; and AMETEK Advanced Industries, Inc. Mandatory Service Bulletin—Number: 2009–0414, dated April 2009.
(4) Use the form (Figure 1 of this AD) to report the results of the inspections required in paragraph (f)(1) of this AD. The Office of Management and Budget (OMB) approved the information collection requirements contained in this regulation under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) and assigned OMB Control Number 2120–0056.	Within 10 days after the inspection required in paragraph (f)(1) of this AD.	Send the report to the FAA at the address specified in paragraph (g) of this AD.

FAA–2010–0523 INSPECTION REPORT		
(If the inspection required in paragraph (f)(1) of this AD was done before September 29, 2010 (the effective date of this AD), this report does not need to be completed and returned to the Wichita ACO)		
Airplane Model		
Airplane Serial Number		
Airplane Tachometer Hours at Time of Inspection		
Right Hand Starter Generator serial number		
Left Hand Starter Generator serial number		
Does the RH Starter Generator fall within the suspect lot?	No	If yes, replace and document replacement starter generator serial number.
Does the LH Starter Generator fall within the suspect lot?	No	If yes, replace and document replacement starter generator serial number.
If both Starter Generators serial numbers fell within the suspect lot, was only one Starter Generator replaced?	No	If yes, describe and document which starter generator needs to be replaced.
Were any other discrepancies noticed during the inspection?		
Send report to: Kevin Schwemmer, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, KS 67209, fax: (316) 946–4107, e-mail: *kevin.schwemmer@faa.gov.*		

Figure 1

Alternative Methods of Compliance (AMOCs)

(g) The Manager, Wichita 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: Kevin Schwemmer, Aerospace Engineer, FAA, Wichita ACO, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4174; fax: (316) 946–4107; e-mail: *kevin.schwemmer@faa.gov.* 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.

Material Incorporated by Reference

(h) You must use Hawker Beechcraft Mandatory Service Bulletin SB 24–3963, dated May 2009; and AMETEK Advanced Industries, Inc. Mandatory Service Bulletin—Number: 2009–0414, dated April 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 Hawker Beechcraft Corporation, 9709 East Central, Wichita, Kansas 67201; telephone: (316) 676–5034; fax: (316) 676–6614; Internet: *https://www.hawkerbeechcraft.com/service_support/pubs/.*

(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 August 10, 2010.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–20490 Filed 8–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0799; Directorate Identifier 2010–NM–157–AD; Amendment 39–16414; AD 2010–18–01]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 and ERJ 190 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:

It has been found the possibility of right hand (RH) engine compressor stall after the Auxiliary Power Unit (APU) becomes the active bleed source for the left side.

The most critical condition identified is:

—Both engines close to idle (*e.g.:* descent phase); and

—APU running; and

—APU bleed button pushed in.

In this condition, if the left hand (LH) engine fails, the APU bleed valve and the crossbleed valve may be both in the open position for a few seconds, [which] may lead to a backpressure in RH engine depending on APU bleed pressure. Such backpressure may cause an RH engine compressor stall, culminating in a dual engine failure.

* * * * *

This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective September 9, 2010.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in the AD as of September 9, 2010.

We must receive comments on this AD by October 12, 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: Cindy Ashforth, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2768; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directives 2010–07–02 and 2010–07–03, both effective July 31, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

It has been found the possibility of right hand (RH) engine compressor stall after the Auxiliary Power Unit (APU) becomes the active bleed source for the left side.

The most critical condition identified is:

—Both engines close to idle (*e.g.:* descent phase); and

—APU running; and

—APU bleed button pushed in.

In this condition, if the left hand (LH) engine fails, the APU bleed valve and the crossbleed valve may be both in the open position for a few seconds, [which] may lead to a backpressure in RH engine depending on APU bleed pressure. Such backpressure may cause an RH engine compressor stall, culminating in a dual engine failure.

* * * * *

The corrective action includes revising the Limitations sections of the applicable airplane flight manual to inform operators about the possibility of having an engine stall after the APU becomes the active bleed source for the left side and to specify the condition where APU bleed must not be used. You may obtain further information by examining the MCAI in the AD docket.

Interim Action

We consider this AD interim action. If final action is later identified, we might consider further rulemaking then.

Relevant Service Information

EMBRAER has issued Operational Bulletin 170–001/09, Revision 1, dated February 10, 2010, applicable to both Model ERJ 170 and ERJ 190 airplanes. 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, if the LH engine fails, backpressure in the RH engine, depending on APU bleed pressure, can cause a RH engine compressor stall, culminating in a dual engine failure. 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–2010–0799; Directorate Identifier 2010–NM–157–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:

2010–18–01 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–16414. Docket No. FAA–2010–0799; Directorate Identifier 2010–NM–157–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective September 9, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170–100 LR, –100 STD, –100 SE, and –100 SU airplanes; Model ERJ 170–200 LR, –200 SU, and –200 STD airplanes; Model ERJ 190–100 STD, –100 LR, –100 ECJ, and –100 IGW airplanes; and Model ERJ 190–200 STD, –200 LR, and –200 IGW airplanes; certificated in any category, all serial numbers.

Subject

(d) Air Transport Association (ATA) of America Code 49: Airborne auxiliary power.

Reason

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

It has been found the possibility of right hand (RH) engine compressor stall after the Auxiliary Power Unit (APU) becomes the active bleed source for the left side.

The most critical condition identified is:

—Both engines close to idle (*e.g.:* descent phase); and
—APU running; and
—APU bleed button pushed in.

In this condition, if the left hand (LH) engine fails, the APU bleed valve and the crossbleed valve may be both in the open position for a few seconds, [which] may lead to a backpressure in RH engine depending on APU bleed pressure. Such backpressure may cause an RH engine compressor stall, culminating in a dual engine failure.

* * * * *

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 14 days after the effective date of this AD, revise the Limitations section of the applicable airplane flight manual (AFM) to include the information in EMBRAER Operational Bulletin 170–001/09, Revision 1, dated February 10, 2010, as specified in the operational bulletin. This operational bulletin introduces limitations for the use of APU bleed.

Note 1: This may be done by inserting a copy of EMBRAER Operational Bulletin 170–001/09, Revision 1, dated February 10, 2010, into the AFM. When this operational bulletin has been included in general revisions of the AFM, the general revisions may be inserted

in the AFM, provided the relevant information in the general revision is identical to that in the operational bulletin, and the operational bulletin can be removed.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Cindy Ashforth, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2768; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

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

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

Related Information

(i) Refer to MCAI Brazilian Airworthiness Directives 2010–07–02 and 2010–07–03, both effective July 31, 2010; and EMBRAER Operational Bulletin 170–001/09, Revision 1, dated February 10, 2010; for related information.

Material Incorporated by Reference

(j) You must use EMBRAER Operational Bulletin 170–001/09, Revision 1, dated February 10, 2010, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—BRASIL; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546; e-mail *distrib@embraer.com.br;* Internet: *http://www.flyembraer.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 August 13, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–20841 Filed 8–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0683; Directorate Identifier 2010–NE–25–AD; Amendment 39–16415; AD 2010–18–02]

RIN 2120–AA64

Airworthiness Directives; Thielert Aircraft Engines GmbH (TAE) Models TAE 125–01 and TAE 125–02–99 Reciprocating Engines

AGENCY: Federal Aviation Administration (FAA), 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) 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:

In-flight shutdown incidents have been reported on airplanes equipped with TAE 125 engines. Preliminary investigations showed that it was mainly the result of nonconforming disc springs (improper heat treatment) used in a certain production batch of the clutch.

We are issuing this AD to prevent engine in-flight shutdown leading to loss of control of the airplane.

DATES: This AD becomes effective September 9, 2010.

We must receive comments on this AD by September 24, 2010.

The Director of the Federal Register approved the incorporation by reference of Thielert Aircraft Engines GmbH Service Bulletin (SB) No. TM TAE 125–0021, dated June 9, 2010, and SB No. TM TAE 125–1011 P1, dated June 9, 2010, listed in the AD as of September 9, 2010.

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

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

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 the same as the Mail address provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Alan Strom, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *alan.strom@faa.gov;* telephone (781) 238–7143; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2010–0111–E, dated June 10, 2010 (corrected June 11, 2010) (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

In-flight shutdown incidents have been reported on airplanes equipped with TAE 125 engines. Preliminary investigations showed that it was mainly the result of nonconforming disc springs (improper heat treatment) used in a certain production batch of the clutch.

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

Relevant Service Information

TAE has issued SB No. TM TAE 125–0021, dated June 9, 2010, and SB No. TM TAE 125–1011 P1, dated June 9, 2010. The actions described in these SBs 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 Germany, and is approved for operation in the United States. Pursuant to our bilateral agreement with Germany, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This AD requires replacement of affected clutch assemblies.

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 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.

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 need for operators to comply with some of the AD actions before further flight. 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–2010–0683; Directorate Identifier 2010–NE–25–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 with FAA personnel concerning this AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

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:

2010–18–02 Thielert Aircraft Engines GmbH: Amendment 39–16415.; Docket No. FAA–2010–0683; Directorate Identifier 2010–NE–25–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective September 9, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Thielert Aircraft Engines GmbH (TAE):

(1) TAE 125–01 reciprocating engines (commercial designation Centurion 1.7), all serial numbers, if a clutch assembly part number (P/N) 02–7210–11001R13 is installed; and

(2) TAE 125–02–99 reciprocating engines (commercial designation Centurion 2.0), all serial numbers, if a clutch assembly P/N 05–7211–K006001 or P/N 05–7211–K006002 is installed.

(3) These engines are installed on, but not limited to, Cessna 172 and (Reims-built) F172 series (European Aviation Safety Agency (EASA) STC No. EASA.A.S.01527); Piper PA–28 series (EASA STC No. EASA.A.S. 01632); APEX (Robin) DR 400 series (EASA STC No. A.S.01380); and Diamond Aircraft Industries Models DA40 and DA42 airplanes.

Reason

(d) In-flight shutdown incidents have been reported on airplanes equipped with TAE 125 engines. Preliminary investigations showed that it was mainly the result of nonconforming disc springs (improper heat treatment) used in a certain production batch of the clutch.

We are issuing this AD to prevent engine in-flight shutdown leading to loss of control of the airplane.

Actions and Compliance

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

(1) Before next flight after the effective date of this AD, identify the serial number (S/N) of each P/N 02–7210–11001R13, P/N 05–7211–K006001, and P/N 05–7211–K006002 clutch assembly installed on the airplane. If the S/N matches one of those listed in Thielert Aircraft Engines GmbH Service Bulletin (SB) No. TM TAE 125–0021, dated June 9, 2010, or SB No. TM TAE 125–1011 P1, dated June 9, 2010, as applicable to engine model, replace the clutch assembly within the following compliance times:

(i) For engines with affected clutch assemblies that have accumulated 100 flight hours or more on the effective date of this AD, replace the clutch assembly before further flight.

(ii) For engines with affected clutch assemblies that have accumulated less than 100 flight hours on the effective date of this AD, replace the clutch assembly before accumulating 100 flight hours.

Clutch Assembly Prohibition

(2) After the effective date of this AD:

(i) Do not install an engine having a clutch assembly that is listed by S/N in Thielert Aircraft Engines GmbH Service Bulletin (SB) No. TM TAE 125–0021, dated June 9, 2010, or SB No. TM TAE 125–1011 P1, dated June 9, 2010; and

(ii) Do not install any clutch assembly listed by S/N in Thielert Aircraft Engines GmbH Service Bulletin (SB) No. TM TAE 125–0021, dated June 9, 2010, or SB No. TM TAE 125–1011 P1, dated June 9, 2010, into any engine.

FAA AD Differences

(f) This AD differs from the Mandatory Continuing Airworthiness Information (MCAI) and/or service information as follows:

(1) EASA AD 2010–0111–E, dated June 10, 2010 (corrected June 11, 2010) has separate compliance times for engines installed on twin-engine airplanes. This AD does not.

(2) EASA AD 2010–0111–E, dated June 10, 2010 (corrected June 11, 2010) allows a single ferry flight with conditions. This AD does not.

Alternative Methods of Compliance (AMOCs)

(g) The Manager, Engine Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(h) Refer to MCAI EASA AD 2010–0111–E, dated June 10, 2010 (corrected June 11, 2010), for related information.

(i) Contact Alan Strom, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *alan.strom@faa.gov;* telephone (781) 238–7143; fax (781) 238–7199, for more information about this AD.

Material Incorporated by Reference

(j) You must use Thielert Aircraft Engines GmbH Service Bulletin No. TM TAE 125–0021, dated June 9, 2010, or SB No. TM TAE 125–1011 P1, also dated June 9, 2010, to identify the affected clutch assemblies requiring replacement by this AD.

(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 Thielert Aircraft Engines GmbH, Platanenstrasse 14 D–09350, Lichtenstein, Germany, telephone: +49–37204–696–0; fax: +49–37204–696–55; e-mail: *info@centurion-engines.com.*

(3) You may review copies at the FAA, New England Region, 12 New England Executive Park, Burlington, MA; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on August 16, 2010.

Peter A. White,

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

[FR Doc. 2010–21058 Filed 8–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0798; Directorate Identifier 2010–NM–174–AD; Amendment 39–16413; AD 2010–17–19]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER Series Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) that applies to all Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. The existing AD currently requires, for certain airplanes, a one-time detailed inspection of the inboard and outboard aft attach lugs of the left and right elevator tab control mechanisms for discrepancies, and replacement of any discrepant elevator tab control mechanism. For certain other airplanes, the existing AD requires that the inspections be done repetitively. Replacing the elevator tab control mechanism with a new Boeing-built mechanism terminates the repetitive inspections in the existing AD. This new AD requires that modified repetitive inspections be done on all airplanes, regardless of accomplishment of the terminating action specified in the existing AD. This AD results from reports of failure of the aft attach lugs on the elevator tab control mechanisms, which resulted in severe elevator vibration. This AD also results from reports of gaps in elevator tab control mechanisms and analysis that additional elevator tab control mechanisms might have bearings that will come loose. We are issuing this AD to detect and correct discrepancies in the aft attach lugs of the elevator tab control mechanism, which could result in elevator and tab vibration. Consequent structural failure of the elevator or horizontal stabilizer could result in loss of structural integrity and aircraft control.

DATES: This AD becomes effective September 9, 2010.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of September 9, 2010.

On April 29, 2010 (75 FR 21499, April 26, 2010), the Director of the Federal Register approved the incorporation by reference of a certain other publication listed in the AD.

We must receive any comments on this AD by October 12, 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: Kelly McGuckin, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6490; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

On April 19, 2010, we issued AD 2010–09–05, amendment 39–16270 (75 FR 21499, April 26, 2010). That AD applies to all Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. That AD requires, for certain airplanes, a one-time detailed inspection of the inboard and outboard aft attach lugs of the left and right elevator tab control mechanisms for discrepancies, and replacement of any discrepant elevator tab control mechanism (the replacement includes performing the detailed inspection on the replacement part before and after installation, and corrective actions if necessary). For certain other airplanes, that AD requires repetitive inspections for discrepancies of the inboard and outboard aft attach lugs of the left and right elevator tab control mechanisms, and replacement if necessary. For airplanes on which the elevator tab control mechanism is replaced with a certain mechanism, that AD requires repetitive inspections for discrepancies of the elevator tab control mechanism and replacement if necessary. Replacing the elevator tab control mechanism with a new Boeing-built mechanism terminates the repetitive inspections in that AD. That AD resulted from reports of failure of the aft attach lugs on the elevator tab control mechanisms, which resulted in severe elevator vibration. One event occurred on an airplane on which a previous AD (emergency AD 2010–06–51, Amendment 39–16250 (75 FR 16648, April 2, 2010)) had been done. The actions specified in AD 2010–09–05 are intended to detect and correct discrepancies in the aft attach lugs of the elevator tab control mechanism, which could result in unwanted elevator and tab vibration. Consequent structural failure of the elevator or horizontal stabilizer could result in loss of structural integrity and aircraft control.

Actions Since AD 2010–09–05 Was Issued

Since we issued AD 2010–09–05, we have received reports of gaps and loose bearings. For Boeing-built mechanisms, we received reports of gaps but no reports of loose bearings. Also, additional analysis has shown that non-Boeing-built mechanisms installed on airplanes having Line Number 2708 and subsequent might have bearings that will come loose. We have determined that the identified unsafe condition is related to the design of the elevator tab control mechanism. Therefore, all airplanes identified in the applicability of this AD must be repetitively inspected. In addition, installing a Boeing-built mechanism is no longer terminating action for the repetitive inspections.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010. This service bulletin describes procedures for repetitive inspections for discrepancies of the inboard and outboard aft attach lugs of the left and right elevator tab control mechanisms, and replacement if necessary. We referred to Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010, as the appropriate source of service information for accomplishing certain required actions in AD 2010–09–05. Boeing Alert Service Bulletin 737–27A1297, Revision 1, no longer specifies that installing a Boeing-built mechanism ends the repetitive inspections. Boeing Alert Service Bulletin 737–27A1297, Revision 1, also modifies the inspection procedure by expanding the allowable gap depth in the lug-to-lug interface and the lug-to-spacer interface. Boeing Alert Service Bulletin 737–27A1297, Revision 1, also removes the procedure to determine if replacement mechanisms are Boeing-built or non-Boeing-built.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other airplanes of the same type design. For this reason, we are issuing this AD to supersede AD 2010–09–05. This new AD retains certain requirements of the existing AD. This AD also requires accomplishing the actions specified in Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010, described previously, except this AD does not require sending discrepant elevator tab control mechanisms to the manufacturer. This AD does require sending the inspection results to the manufacturer.

Change to Existing AD

This AD retains certain requirements of AD 2010–09–05. As a result, the corresponding paragraph identifiers have changed in this AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2010–09–05	Corresponding requirement in this AD
paragraph (m)	paragraph (g)
paragraph (n)	paragraph (h)
paragraph (o)	paragraph (i)
paragraph (p)	paragraph (j)
paragraph (q)	paragraph (k)
paragraph (r)	paragraph (l)
paragraph (s)	paragraph (m)

Interim Action

This AD is considered to be interim action. The manufacturer is currently developing a terminating action that will address the unsafe condition identified in this AD. Once final action has been identified, we might consider further rulemaking.

FAA's Justification and Determination of the Effective Date

Discrepancies, including loose bearings, in the aft attach lugs of the elevator tab control mechanism could result in elevator and tab vibration. Consequent structural failure of the elevator or horizontal stabilizer could result in loss of structural integrity and aircraft control. Because of our requirement to promote safe flight of civil aircraft and thus, the critical need to ensure the structural integrity of the airplane and 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–2010–0798; Directorate Identifier 2010–

NM–174–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 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 a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. *See* the **ADDRESSES** section for a location to examine the regulatory evaluation.

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 part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–16270 (75 FR 21499, April 26, 2010) and by adding the following new airworthiness directive (AD):

2010–17–19 The Boeing Company: Amendment 39–16413. Docket No. FAA–2010–0798; Directorate Identifier 2010–NM–174–AD.

Effective Date

(a) This AD becomes effective September 9, 2010.

Affected ADs

(b) This AD supersedes AD 2010–09–05, Amendment 39–16270.

Applicability

(c) This AD applies to all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes; certificated in any category.

Subject

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

Unsafe Condition

(e) This AD results from reports of failure of the aft attach lugs on elevator tab control mechanisms, which resulted in severe elevator vibration. This AD also results from reports of gaps in elevator tab control mechanisms and analysis that additional elevator tab control mechanisms might have bearings that will come loose. The Federal Aviation Administration is issuing this AD to detect and correct discrepancies in the aft attach lugs of the elevator tab control mechanism, which could result in elevator and tab vibration. Consequent structural failure of the elevator or horizontal stabilizer could result in loss of structural integrity and aircraft control.

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.

Restatement of Certain Requirements of AD 2010–09–05, With Revised Terminating Action

Repetitive Inspections for Group 1 Airplanes, as Identified in Boeing Alert Service Bulletin 737–27A1297, Dated April 16, 2010

(g) For Group 1 airplanes, as identified in Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010: Except as required by paragraph (h) of this AD, within 12 days after April 29, 2010 (the effective date of AD 2010–09–05), do a detailed inspection for discrepancies of the inboard and outboard aft attach lugs of the left and right elevator control tab mechanisms, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010. Repeat the inspection thereafter at intervals not to exceed 300 flight hours. Doing the replacement specified in paragraph (l) of this AD before the effective date of this AD terminates the requirements of this paragraph. Doing the inspection required by paragraph (n) of this AD terminates the requirements of this paragraph.

(h) For Group 1 airplanes as identified in Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010: Beginning 7 days after April 29, 2010, no person may operate an airplane on an extended twin operations (ETOPS) flight unless the initial inspection required by paragraph (g) of this AD has been accomplished. Doing the inspection required by paragraph (n) of this AD terminates the requirements of this paragraph.

One-Time Inspection for Group 2, Configuration 1 Airplanes, as Identified in Boeing Alert Service Bulletin 737–27A1297, Dated April 16, 2010

(i) For Group 2, Configuration 1 airplanes as identified in Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010: Within 30 days after April 29, 2010, do a one-time detailed inspection for discrepancies of the inboard and outboard aft attach lugs of the left and right elevator control tab mechanisms, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010. Doing the inspection required by paragraph (n) of this AD terminates the requirements of this paragraph.

Corrective Actions for Paragraphs (g), (i), and (k) of This AD

(j) If, during any inspection required by paragraph (g), (i), or (k) of this AD, any discrepancy is found, before further flight, replace the elevator tab control mechanism by doing the actions specified in paragraphs (j)(1) and (j)(2) of this AD.

(1) Do a detailed inspection for discrepancies of the replacement elevator tab control mechanism; and, if no discrepancy is found, install the replacement elevator tab control mechanism; in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010. If any discrepancy is found, then that elevator tab control mechanism cannot be installed and the actions specified in this paragraph must be done before further flight

on another replacement elevator tab control mechanism.

(2) Re-inspect the installed elevator tab control mechanism using the inspection procedure specified in paragraph (i) of this AD.

Repetitive Inspections for Certain Group 2, Configuration 1 Airplanes, as Identified in Boeing Alert Service Bulletin 737–27A1297, Dated April 16, 2010

(k) For Group 2, Configuration 1 airplanes as identified in Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010, on which the elevator control tab mechanism is replaced with a mechanism other than a new, Boeing-built mechanism: Within 300 flight hours after doing the replacement, do a detailed inspection for discrepancies of the inboard and outboard aft attach lugs of the left and right elevator control tab mechanisms, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010. Repeat the inspection thereafter at intervals not to exceed 300 flight hours. Doing the replacement specified in paragraph (l) of this AD before the effective date of this AD is terminating action for this paragraph. Doing the inspection required by paragraph (n) of this AD terminates the requirements of this paragraph.

Terminating Action for Paragraphs (g), (i), and (k) of This AD, if Done Before the Effective Date of This AD

(l) Replacing an elevator tab mechanism with a new, Boeing-built mechanism before the effective date of this AD, as specified in paragraphs (l)(1) and (l)(2) of this AD, terminates the inspections required by paragraphs (g), (i), and (k) of this AD. Replacement of the elevator tab control mechanism on or after the effective date of this AD does not terminate the inspections required by paragraphs (g), (i), and (k) of this AD.

Note 1: Refer to paragraphs 3.B.7.b.(1)(a)(1) and 3.B.7.b.(1)(a)(2) of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010, to establish whether the mechanism is Boeing-built.

(1) Do a detailed inspection for discrepancies of the new, Boeing-built replacement elevator tab control mechanism; and, if no discrepancy is found, install the replacement elevator tab control mechanism; in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010. If any discrepancy is found, then that elevator tab control mechanism cannot be installed and the actions specified in this paragraph must be done on another new, Boeing-built replacement elevator tab control mechanism.

(2) Re-inspect the installed elevator tab control mechanism using the inspection procedure specified in paragraph (i) of this AD.

Reporting for Paragraphs (g), (i), and (k) of This AD

(m) At the applicable time specified in paragraph (m)(1) or (m)(2) of this AD: Submit a report of any findings (positive and negative) of the first inspection required by paragraphs (g), (i), and (k) of this AD, and any positive findings from the repetitive inspections required by paragraphs (g) and (k) of this AD, to Boeing Commercial Airplanes Group, Attention: Manager, Airline Support, e-mail: *rse.boecom@boeing.com.* The report must include the inspection results including a description of any discrepancies found, the airplane line number, and the total number of flight cycles and flight hours accumulated on the airplane. Under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120–0056.

(1) If the inspection was done on or after April 29, 2010: Submit the report within 10 days after the inspection.

(2) If the inspection was done before April 29, 2010: Submit the report within 10 days after April 29, 2010.

New Requirements of This AD

Repetitive Inspections

(n) At the applicable time specified in paragraph (n)(1), (n)(2), or (n)(3) of this AD: Do a detailed inspection for discrepancies of the inboard and outboard aft attach lugs of the left and right elevator tab control mechanisms, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010. For Groups 1 and 2 airplanes identified in Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010, repeat the inspection thereafter at intervals not to exceed 300 flight hours, except as provided by paragraph (t)(2) of this AD. For Group 3 airplanes identified in Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010, repeat the inspection thereafter at intervals not to exceed 1,800 flight hours, except as required by paragraphs (p) and (t)(2) of this AD. Doing the inspection specified in this paragraph terminates the requirements of paragraphs (g), (h), (i), and (k) of this AD.

(1) For Group 1 airplanes identified in Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010: Within 300 flight hours after doing an inspection in accordance with Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010, or within 30 days after the effective date of this AD, whichever occurs later.

(2) For Group 2 airplanes identified in Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010: At the later of the times specified in paragraph (n)(2)(i) and (n)(2)(ii) of this AD.

(i) Before the accumulation of 2,000 total flight cycles or 4,000 total flight hours, whichever occurs first.

(ii) Within 14 days after the effective date of this AD.

(3) For Group 3 airplanes identified in Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010: Within 180 days or 1,800 flight hours after the effective date of this AD, whichever occurs first.

Corrective Actions

(o) If, during any inspection required by paragraph (n) or (p) of this AD, any discrepancy is found, before further flight, replace the elevator tab control mechanism by doing the actions specified in paragraphs (o)(1) and (o)(2) of this AD.

(1) Do a detailed inspection for discrepancies of the replacement elevator tab control mechanism; and, if no discrepancy is found, install the replacement elevator tab control mechanism; in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010. If any discrepancy is found, then that elevator tab control mechanism cannot be installed and the actions specified in this paragraph must be done before further flight on another replacement elevator tab control mechanism.

(2) Re-inspect the installed elevator tab control mechanism using the inspection procedure specified in paragraph (n) of this AD.

Reduced Repetitive Inspection Interval for Group 3 Airplanes, as Identified in Boeing Alert Service Bulletin 737–27A1297, Revision 1, on Which the Mechanism Is Replaced

(p) For Group 3 airplanes as identified in Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010, on which the elevator tab control mechanism is replaced during the actions required by paragraph (o) of this AD: Within 300 flight hours after doing the replacement, do a detailed inspection for discrepancies of the inboard and outboard aft attach lugs of the replaced elevator tab control mechanism, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010. Repeat the inspection of the replaced elevator tab control mechanism thereafter at intervals not to exceed 300 flight hours, except as provided by paragraph (t)(2) of this AD.

Credit for Initial Inspection Done in Accordance With the Original Issue of the Service Bulletin

(q) For Group 1 airplanes as identified in Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010: Inspections done in accordance with Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010, are acceptable for compliance with only the initial inspection required by paragraph (n) of this AD.

Reporting for Paragraphs (n) and (p) of This AD

(r) At the applicable time specified in paragraph (r)(1) or (r)(2) of this AD: Submit a report of any findings (positive and negative) of the first inspection required by paragraphs (n) and (p) of this AD, except for airplanes on which a report required by paragraph (m) of this AD has been submitted, only submit positive findings; and submit a report of any positive findings from the repetitive inspections required by paragraphs (n) and (p) of this AD; to Boeing Commercial Airplanes Group, Attention: Manager, Airline Support, e-mail: *rse.boecom@boeing.com.* The report must include the inspection results including a description of any discrepancies found, the airplane line number, and the total number of flight cycles

and flight hours accumulated on the airplane. Under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120–0056.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 10 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 10 days after the effective date of this AD.

No Return of Parts

(s) Although Boeing Alert Service Bulletins 737–27A1297, dated April 16, 2010; and Revision 1, dated August 2, 2010; specify to return the affected elevator tab control mechanism to the manufacturer, this AD does not require the return of the part to the manufacturer.

Parts Installation

(t) As of the effective date of this AD, comply with the conditions specified in paragraphs (t)(1) and (t)(2) of this AD.

(1) No person may install an elevator tab control mechanism, part number 251A2430–( ), on any airplane, unless the mechanism has been inspected before and after installation using the inspection procedures specified in paragraphs (o)(1) and (o)(2) of this AD, and no discrepancies have been found.

(2) An elevator tab control mechanism, part number 251A2430–( ), may be installed, provided that the inspection specified in paragraph (n) of this AD is done within 300 flight hours after doing the installation, and that the inspection specified in paragraph (n) of this AD is repeated thereafter at intervals not to exceed 300 flight hours.

Alternative Methods of Compliance (AMOCs)

(u)(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: Kelly McGuckin, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone 425–917–6490; fax 425–917–6590. Information may be e-mailed to: *9–ANM–Seattle-ACO–AMOC–Requests@faa.gov.*

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

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

(4) AMOCs approved previously in accordance with AD 2010–09–05, amendment 39–16270, are approved as AMOCs for the corresponding provisions of paragraphs (g), (h), (i), (j), and (k) of this AD.

Material Incorporated by Reference

(v) You must use Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010; and Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010; 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 Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010, 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 Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010, on April 29, 2010 (75 FR 21499, April 26, 2010).

(3) 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.*

(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.

(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 August 11, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–20556 Filed 8–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0804; Directorate Identifier 2010–NM–163–AD; Amendment 39–16420; AD 2010–18–07]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A318, A319, A320, and A321 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:

A special detailed inspection of A318/A319/A320/A321 elevators pre-modification 35515 was introduced under ALI (Airworthiness Limitations Items) task 552007 in the ALS (Airworthiness Limitations Section) part 2 * * * This ALI task has been introduced with an applicability defined at aeroplane modification level.

* * * * *

It has been reported that some elevators may have been moved from the aeroplane on which they were originally fitted to another aeroplane, * * *. Consequently, those elevators might not have been inspected within the applicable required time frame as per ALI task 552007 requirements.

* * * * *

The unsafe condition is structural failure of the elevators and consequent loss of control of the airplane. This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective September 9, 2010.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of September 9, 2010.

We must receive comments on this AD by October 12, 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: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2010–0091, dated May 19, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> A special detailed inspection of A318/A319/A320/A321 elevators pre-modification 35515 was introduced under ALI (Airworthiness Limitations Items) task 552007 in the ALS (Airworthiness Limitations Section) part 2 under ALI Document reference AI/SE–M4/95A.0252/96 at issue 7; approved by EASA on 07 February, 2006, and mandated by EASA AD 2006–0165 [which corresponds to FAA AD 2007–20–05, Amendment 39–15215 (72 FR 56262, October 3, 2007)]. This ALI task has been introduced with an applicability defined at aeroplane modification level.
>
> A specific statement related to the interchangeable parts policy was introduced in issue 9 of the ALI Document approved by EASA on 21 May, 2007. This statement required to track interchangeable damage tolerant part movements between aeroplanes.
>
> It has been reported that some elevators may have been moved from the aeroplane on which they were originally fitted to another aeroplane, and spare parts may have been installed without being traced with regard to the ALI Document requirements. Consequently, those elevators might not have been inspected within the applicable required time frame as per ALI task 552007 requirements.
>
> For the reasons described above, this AD requires the identification of the elevators installed on the aeroplane to determine whether these elevators have been inspected within the applicable required time frame as per ALI task 552007. If this had not been done, this AD requires the accomplishment of that inspection and, depending on findings, associated corrective action(s).

The unsafe condition is structural failure of the elevators and consequent loss of control of the airplane. The corrective actions include a special detailed inspection (thermographic) of affected elevators for damage, including cracking, and repairing any damage or cracking found. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued Service Bulletin A320–55A1040, dated January 11, 2010. Airbus has also issued A318/A319/A320/A321 Airworthiness Limitation Items (ALI) AI/SE–M4/95A.0252/96, Issue 09, dated November 2006; and Issue 10, dated October 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 some elevators may have been moved from one airplane to another without being traced, and consequently may not have been inspected in accordance with ALI task 552007. Elevators not inspected within the compliance time in ALI Task 552007 could fail. Failure of the elevators could result in reduced structural integrity 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–2010–0804; Directorate Identifier 2010–NM–163–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:

2010–18–07 Airbus: Amendment 39–16420. Docket No. FAA–2010–0804; Directorate Identifier 2010–NM–163–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective September 9, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Airbus Model A318–111, –112, –121, and –122 airplanes; A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–111, –211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes; certificated in any category.

Subject

(d) Air Transport Association (ATA) of America Code 55: Stabilizers.

Reason

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

A special detailed inspection of A318/A319/A320/A321 elevators pre-modification 35515 was introduced under ALI (Airworthiness Limitations Items) task 552007 in the ALS (Airworthiness Limitations Section) part 2 * * * This ALI task has been introduced with an applicability defined at aeroplane modification level.

* * * * *

It has been reported that some elevators may have been moved from the aeroplane on which they were originally fitted to another aeroplane, * * *. Consequently, those elevators might not have been inspected within the applicable required time frame as per ALI task 552007 requirements.

* * * * *

The unsafe condition is structural failure of the elevators and consequent loss of control of the airplane.

Compliance

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

Actions

(g) Within 30 days after the effective date of this AD, inspect the left-hand (LH) and right-hand (RH) elevators to determine if the first twelve digits of the part number on the elevator are identified in Table 1 or Table 2 of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–55A1040, dated January 11, 2010; and do the actions required by paragraphs (g)(1) and (g)(2) of this AD, as applicable. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the elevators can be conclusively identified from that review.

(1) If any part number is identified in Table 1 of this AD: Within 30 days after the effective date of this AD, do the applicable determination specified in paragraph (g)(1)(i) or (g)(1)(ii) of this AD and compare it to the threshold for the next due inspection, as specified in Airbus ALI Task 552007–01–1 or 552007–01–3, which is defined in Airbus A318/A319/A320/A321 ALI AI/SE–M4/95A.0252/96, Issue 09, dated November 2006; or Issue 10, dated October 2009.

TABLE 1—ELEVATOR PART NUMBER

Part name	First twelve digits of part number only
LH Elevator	D55280001000.
RH Elevator	D55280001001.

(i) For elevators on which Airbus Service Bulletin A320–55–1024 has been done: If adequate records exist, determine the elapsed (calendar) time since the date of the first flight of the first airplane on which the elevator is installed after the actions in Airbus Service Bulletin A320–55–1024 were done on the elevator.

(ii) For elevators on which Airbus Service Bulletin A320–55–1024 has not been done: If adequate records exist, determine the elapsed (calendar) time since the date of the first flight of the first airplane on which the elevator is installed.

(2) If any part number is identified in Table 2 of this AD: Within 30 days after the effective date of this AD, if adequate records exist, determine the elapsed (calendar) time since the date of the first flight of the first airplane on which the elevator is installed and compare it to the threshold for the next due inspection, as specified in Airbus ALI Task 552007–01–2 or 552007–01–4, which is defined in Airbus A318/A319/A320/A321 ALI AI/SE–M4/95A.0252/96, Issue 09, dated November 2006; or Issue 10, dated October 2009.

TABLE 2—ELEVATOR PART NUMBER

Part name	First twelve digits of part number only
LH Elevator	D55280001002, D55280001004, D55280001008, D55280001010, or D55280001012.
RH Elevator	D55280001003, D55280001005, D55280001009, D55280001011 or D55280001013.

(h) If the elapsed time, determined as required by paragraph (g)(1) of this AD, has exceeded the ALI threshold for the next due inspection, as specified in Airbus ALI Task 552007–01–1 or 552007–01–3; or if unable to determine the elapsed time: Within 30 days after the effective date of this AD, perform a special detailed inspection for damage, including cracking, of the top and bottom skin panels of the affected elevators, in accordance with Airbus ALI Task 552007–01–1 or 552007–01–3, which is defined in Airbus A318/A319/A320/A321 ALI AI/SE–M4/95A.0252/96, Issue 09, dated November 2006; or Issue 10, dated October 2009. If any damage or cracking is found, before further flight, repair using a method approved by either the Manager, International Branch, ANM 116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA) (or its delegated agent).

(i) If the elapsed time, determined as required by paragraph (g)(1) of this AD, has not exceeded the ALI threshold for the next

due inspection, as specified in Airbus ALI Task 552007–01–1 or 552007–01–3: Before reaching that threshold, or within 30 days after the effective date of this AD, whichever occurs later; perform a special detailed inspection for damage, including cracking, of the top and bottom skin panels of the affected elevators in accordance with Airbus ALI Task 552007–01–1 or 552007–01–3, which is defined in Airbus A318/A319/A320/A321 ALI AI/SE–M4/95A.0252/96, Issue 09, dated November 2006; or Issue 10, dated October 2009. If any damage or cracking is found before further flight repair using a method approved by either the Manager, International Branch, or EASA (or its delegated agent).

(j) If the elapsed time, determined as required by paragraph (g)(2) of this AD, has exceeded the ALI threshold for the next due inspection, as specified in Airbus ALI Task 552007–01–2 or 552007–01–4; or if unable to determine the elapsed time: Within 30 days after the effective date of this AD, perform a special detailed inspection for damage, including cracking, of the top and bottom skin panels of the affected elevators, in accordance with Airbus ALI Task 552007–01–2 or 552007–01–4, which is defined in Airbus A318/A319/A320/A321 ALI AI/SE–M4/95A.0252/96, Issue 09, dated November 2006; or Issue 10, dated October 2009. If any damage or cracking is found before further flight, repair using a method approved by either the Manager, International Branch, or the EASA (or its delegated agent).

(k) If the elapsed time, determined as required by paragraph (g)(2) of this AD has not exceeded the ALI threshold for the next due inspection, as specified in Airbus ALI Task 552007–01–2 or 552007–01–4: Before reaching that threshold, or within 30 days after the effective date of this AD, whichever occurs later; perform a special detailed inspection for damage, including cracking, of the top and bottom skin panels of the affected elevators, in accordance with Airbus ALI Task 552007–01–2 or 552007–01–4, which is defined in Airbus ALI AI/SE–M4/95A.0252/96, Issue 09, dated November 2006; or Issue 10, dated October 2009. If any damage or cracking is found before further flight, repair using a method approved by either the Manager, International Branch, or EASA (or its delegated agent).

(l) Accomplishment of the inspection and corrective actions required by paragraph (h), (i), (j), and (k) of this AD does not constitute terminating action for the repetitive inspections of Airbus ALI Task 552007, as defined in Airbus A318/A319/A320/A321 ALI AI/SE–M4/95A.0252/96, Issue 09 dated November 2006; or Issue 10, dated October 2009.

(m) As of the effective date of this AD, no person may install, on any airplane, any elevator having a part number identified in Table 1 or 2 of this AD, unless the actions required by paragraphs (g)(1) and (g)(2), of this AD, as applicable, have been done and the inspections and corrective actions required by paragraphs (h), (i), (j), and (k) of this AD have been done.

(n) As of the effective date of this AD, track all interchangeable damage tolerant part movements between airplanes, in accordance with the specific statement in the Section Rules for Compliance Demonstration, either in paragraph F., "Transferable Parts," of the Airbus A318/A319/A320/A321 ALI AI/SE–M4/95A.0252/96, Issue 10, dated October 2009; or in sub-paragraph 10., "Interchangeable parts policy," of Chapter 1.11, "General Rules," of Airbus A318/A319/A320/A321 ALI AI/SE–M4/95A.0252/96, Issue 09, dated November 2006; or Issue 10, dated October 2009.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows: Although the MCAI or service information specifies to perform corrective actions using the instructions defined in Airbus ALI AI/SE–M4/95A.0252/96, Issue 09, dated November 2006; or Issue 10, dated October 2009; if any affected elevators are found, such corrective actions are not identified in the ALI tasks. Therefore, this AD requires that you perform all corrective actions before further flight using a method approved by either the Manager, International Branch, ANM 116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA) (or its delegated agent).

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2141; fax (425) 227–1149. 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

(p) Refer to MCAI EASA Airworthiness Directive 2010–0091, dated May 19, 2010; Airbus Service Bulletin A320–55A1040, dated January 11, 2010; and Airbus A318/A319/A320/A321 ALI AI/SE–M4/95A.0252/96, Issue 09, dated November 2006; and Issue 10, dated October 2009; for related information.

Material Incorporated by Reference

(q) You must use the applicable service information specified 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	Issue	Date
Airbus A318/A319/A320/A321 Airworthiness Limitations Items AI/SE-M4/95A.0252/96	09	November 2006.
Airbus A318/A319/A320/A321 Airworthiness Limitations Items AI/SE-M4/95A.0252/96	10	October 2009.
Airbus Service Bulletin A320–55A1040	Original	January 11, 2010.

Airbus A318/A319/A320/A321 ALI AI/SE–M4/95A.0252/96, Issue 09, contains the following effective pages:

Page title/description	Page number(s)	Issue No.	Date shown on page(s)
List of Effective Pages:			
ALI Title Page	None shown	09	November 2006.
Record of Revisions	1–ROR through 3-ROR	9	November 2006.
Summary of Changes	1–SOC through 2-SOC	9	November 2006.

Page title/description	Page number(s)	Issue No.	Date shown on page(s)
List of Effective Pages	1–LEP	9	November 2006.
Table of Contents	1–TOC	9	November 2006.
Section 1—Introduction	1—7	9	November 2006.
Section 2—Airworthiness Limitation Items (ALI)	1—61	09	November 2006.

Airbus A318/A319/A320/A321 ALI AI/SE–M4/95A.0252/96, Issue 10 contains the following effective pages:

Page title/description	Page number(s)	Issue No.	Date shown on page(s)
List of Effective Pages:			
ALI Title Page	None shown	10	October 2009.
Record of Revisions	1–ROR through 4-ROR	None shown*	October 2009.
Table of Contents	1–TOC	None shown*	October 2009.
Section 1—Introduction	1–INTRO through 8–INTRO	None shown*	October 2009.
Section 2—Damage Tolerant Airworthiness Limitations List.	1—85	None shown*	October 2009.
Appendix A—Summary of Changes	1–APXA through 9-APXA	None shown*	October 2009.
Appendix B—Abbreviations	1–APXB through 2-APXB	None shown*	October 2009.
Appendix C—Terms and Definitions	1–APXC	None shown*	October 2009.
Appendix D—Reporting Form	1–APXD	None shown*	October 2009.
Appendix E—Modifications List	1–APXE through 2-APXE	None shown*	October 2009.

(*Only the title page of this document contains the issue level of the document.)

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

(2) For service information identified in this AD, contact Airbus, Airworthiness Office—EAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; e-mail: *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

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

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

Issued in Renton, Washington, on August 13, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–21023 Filed 8–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0839; Directorate Identifier 2010–CE–042–AD; Amendment 39–16418; AD 2010–18–05]

RIN 2120–AA64

Airworthiness Directives; Aircraft Industries a.s. (Type Certificate G24EU Previously Held by LETECKÉ ZÁVODY a.s. and LET Aeronautical Works) Model L–13 Blanik Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

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

A fatal accident occurred to a L–13 BLANÍK sailplane, in which the main spar of the right wing failed near the root due to positive load. The right wing detached from the aircraft and the pilots lost control of the sailplane.

The preliminary investigation has revealed that the fracture may have been due to fatigue.

The AD 2010–0119–E required immediate inspection of the main spar at the root of the wing to detect fatigue cracking and the accomplishment of the relevant corrective actions as necessary. In addition, the AD 2010–0119–E imposed operational limitations. AD 2010–0122–E retained the requirements of AD 2010–0119–E, which is superseded, and extended the applicability to L–13 A BLANÍK sailplanes.

This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective August 30, 2010.

We must receive comments on this AD by October 12, 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 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, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106, *telephone:* (816) 329–4130, *fax:* (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

On June 28, 2010, we issued AD 2010–14–15, Amendment 39–16360 (75 FR 39795), dated July 13, 2010. That AD required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 2010–14–15, we have received preliminary information from the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, that identified fatigue as the failure mode in the fatal accident. The examination of the fractures in the wing flange straps found eight areas of fatigue cracking that originated from the surface of the bores used to rivet the flange straps to the hinge. The fatigue cracks had propagated to the surface of the flange straps and were not visible for inspection.

In addition, we received several public comments indicating that the use of a 10X magnifier is not appropriate to assess the specified inspection areas and portions of the operational data requested by the current AD are not required for U.S. operators.

EASA has issued Emergency AD No. 2010–0160–E, dated July 30, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> A fatal accident occurred to a L–13 BLANÍK sailplane, in which the main spar of the right wing failed near the root due to positive load. The right wing detached from the aircraft and the pilots lost control of the sailplane.
>
> The preliminary investigation has revealed that the fracture may have been due to fatigue.
>
> The AD 2010–0119–E required immediate inspection of the main spar at the root of the wing to detect fatigue cracking and the accomplishment of the relevant corrective actions as necessary. In addition, the AD 2010–0119–E imposed operational limitations. AD 2010–0122–E retained the requirements of AD 2010–0119–E, which is superseded, and extended the applicability to L–13 A BLANÍK sailplanes.
>
> The requirements of AD 2010–0122–E were considered as interim action to immediately address the unsafe condition. Since issuance of AD 2010–0122–E, based on further information provided by the Austrian Accident Investigation Board, EASA has re-assessed the inspection method as described in Aircraft Industries a.s. Mandatory Bulletin No. L13/109a. EASA now concludes that the inspection method might not be sufficient for detecting the crack which means that the unsafe condition might still be present even if the sailplane has passed the inspection required by AD 2010–0122–E. Furthermore, the Type Certificate Holder indicates that it is extremely important to remain within the flight limitations specified in the Aircraft Industries a.s. Mandatory Bulletin No. L13/109a. For this reason, this AD further requires a record checking for determining if the sailplane has been operated within the flight limitations.
>
> For all the reasons stated above, as a precautionary measure, this AD is prohibiting operations when a sailplane does not pass the requirements of this AD. For those sailplanes, EASA is currently working with the Type Certificate Holder. When, as a result of the on-going investigation, a solution is later identified, further mandatory action is likely to follow.

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

FAA's Determination and Requirements of the 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 issuing this AD because we evaluated all information provided by the State of Design Authority and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

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 have also required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the AD. These requirements take precedence over those copied from the MCAI.

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 a fatal accident occurred in an L–13 Blanik glider. The main spar of the right wing of the accident glider failed near the root due to positive load. The right wing detached from the aircraft and the pilots lost control. The preliminary investigation has revealed that the fracture may have been due to fatigue. 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–2010–0839; Directorate Identifier 2010–CE–042–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 that this AD:

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

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

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

We prepared a 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, 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 39–16360 (75 FR 39795), dated July 13, 2010, and adding the following new AD:

2010–18–05 Aircraft Industries a.s. (Type Certificate G24EU Previously Held by Letecké Závody a.s. and LET Aeronautical Works): Amendment 39–16418; Docket No. FAA–2010–0839; Directorate Identifier 2010–CE–042–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective August 30, 2010.

Affected ADs

(b) This AD supersedes AD 2010–14–15; Amendment 39–16360.

Applicability

(c) This AD applies to Aircraft Industries a.s. L–13 Blanik gliders, all serial numbers, certificated in any category.

Subject

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

Reason

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

A fatal accident occurred to a L–13 BLANÍK sailplane, in which the main spar of the right wing failed near the root due to positive load. The right wing detached from the aircraft and the pilots lost control of the sailplane.

The preliminary investigation has revealed that the fracture may have been due to fatigue.

The AD 2010–0119–E required immediate inspection of the main spar at the root of the wing to detect fatigue cracking and the accomplishment of the relevant corrective actions as necessary. In addition, the AD 2010–0119–E imposed operational limitations. AD 2010–0122–E retained the requirements of AD 2010–0119–E, which is superseded, and extended the applicability to L–13 A BLANÍK sailplanes.

The requirements of AD 2010–0122–E were considered as interim action to immediately address the unsafe condition. Since issuance of AD 2010–0122–E, based on further information provided by the Austrian Accident Investigation Board, EASA has re-assessed the inspection method as described in Aircraft Industries a.s. Mandatory Bulletin No. L13/109a. EASA now concludes that the inspection method might not be sufficient for detecting the crack which means that the unsafe condition might still be present even if the sailplane has passed the inspection required by AD 2010–0122–E. Furthermore, the Type Certificate Holder indicates that it is extremely important to remain within the flight limitations specified in the Aircraft Industries a.s. Mandatory Bulletin No. L13/109a. For this reason, this AD further requires a record checking for determining if the sailplane has been operated within the flight limitations.

For all the reasons stated above, as a precautionary measure, this AD is prohibiting operations when a sailplane does not pass the requirements of this AD. For those sailplanes, EASA is currently working with the Type Certificate Holder. When, as a result of the on-going investigation, a solution is later identified, further mandatory action is likely to follow.

Actions and Compliance

(f) To address this problem, before further flight after August 30, 2010 (the effective date of this AD), incorporate an FAA-approved inspection and/or modification program developed specifically for this AD. Corrective action is considered FAA-approved if it is 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.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: The MCAI requires the owner/operator to submit data regarding certain operations including aerobatic operations, to the European Aviation Safety Agency (EASA) and Aircraft Industries, a.s. so they can determine whether further flight is permitted. The FAA does not require such data to be collected for operations in the United States. The FAA is relying on an inspection and/or modification program approved specifically for this AD to detect and correct cracks before further flight. Until such a program is approved, owners/operators may apply for an alternative method of compliance (AMOC) following 14 CFR 39.19 described in paragraph (f)(1) of this AD. The FAA will work with EASA and Aircraft Industries a.s. to determine if an acceptable level of safety is achieved with the AMOC proposal.

Other FAA AD Provisions

(f) 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.

Special Flight Permit

(g) Under 14 CFR part 39.23, we are limiting the special flight permits for this AD by prohibiting aerobatic maneuvers.

Related Information

(h) Refer to MCAI EASA Emergency AD No. 2010–0160–E, dated July 30, 2010, for related information. For future service information that may be developed to address the unsafe condition specified in this AD, contact Aircraft Industries, a.s., Na Záhonech 1177, 686 04 Kunovice, Czech Republic; *telephone:* +420 572 817 660; *fax:* +420 572 816 112; *Internet: http://www.let.cz/; e-mail: ots@let.cz.*

Issued in Kansas City, Missouri, on August 17, 2010.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–20877 Filed 8–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0847; Directorate Identifier 2010–CE–046–AD; Amendment 39–16419; AD 2010–18–06]

RIN 2120–AA64

Airworthiness Directives; GA 8 Airvan (Pty) Ltd Models GA8 and GA8–TC320 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

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

Inspections have revealed cases of excessive wear in the forward slide of the cargo door. Excessive wear in the door slide may result in the door becoming detached from the aircraft in flight, with potentially catastrophic results.

This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective August 30, 2010.

On August 30, 2010, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

We must receive comments on this AD by October 12, 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 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: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

On October 18, 2005, we issued AD 2005–22–02, Amendment 39–14346 (70 FR 61547; October 25, 2005). That AD required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 2005–22–02, there has been another report of an in-flight cargo door separation. Consequently, GA 8 Airvan (Pty) Ltd has revised the service information by improving the inspection method and making a minor design change to the door slide.

The Civil Aviation Safety Authority (CASA), which is the aviation authority for Australia, has issued AD/GA8/3, Amdt 2, dated August 11, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

Inspections have revealed cases of excessive wear in the forward slide of the cargo door. Excessive wear in the door slide may result in the door becoming detached from the aircraft in flight, with potentially catastrophic results.

Following a recent in-flight door separation, this amendment is issued to update the service bulletin to remove any ambiguities that could have existed in the previous revision to the referenced service bulletin. It also provides an improved inspection method and a minor design change to the cargo door slide (inclusion of slide backing plate, castellated nut and spilt [sic] pin).

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

Relevant Service Information

GippsAero Pty. Ltd. has issued Mandatory Service Bulletin SB–GA8–2005–23, Issue 3, dated August 5, 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 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 issuing this AD because we evaluated all information provided by the State of Design Authority and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

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 have also required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the AD. These requirements take precedence over those copied from the MCAI.

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 an in-flight separation of the door could potentially strike the horizontal stabilizer structure, which could lead to failure of the tailplane assembly. 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–2010–0847; Directorate Identifier 2010–CE–046–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 that this AD:

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

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

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

We prepared a 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 removing Amendment 39–14346 (70 FR 61547; October 25, 2005), and adding the following new AD:

2010–18–06 GA 8 AIRVAN (PTY) LTD: Amendment 39–16419; Docket No. FAA–2010–0847; Directorate Identifier 2010–CE–046–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective August 30, 2010.

Affected ADs

(b) This AD supersedes AD 2005–22–02, Amendment 39–14346.

Applicability

(c) This AD applies to GA 8 Airvan (Pty) Ltd Models GA8 and GA8–TC320 airplanes, all serial numbers, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 52: Doors.

Reason

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

Inspections have revealed cases of excessive wear in the forward slide of the cargo door. Excessive wear in the door slide may result in the door becoming detached from the aircraft in flight, with potentially catastrophic results.

Following a recent in-flight door separation, this amendment is issued to update the service bulletin to remove any ambiguities that could have existed in the previous revision to the referenced service bulletin. It also provides an improved inspection method and a minor design change to the cargo door slide (inclusion of slide backing plate, castellated nut and spilt [sic] pin).

Actions and Compliance

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

(1) Within 500 hours total time-in-service (TIS) of the airplane or within the next 10 hours TIS after August 30, 2010 (the effective date of this AD), whichever occurs later, do all of Action 1: of GippsAero Pty. Ltd. Mandatory Service Bulletin SB–GA8–2005–23, Issue 3, dated August 5, 2010.

(2) Within 100 hours TIS after doing the actions in paragraph (f)(1) of this AD or within 12 calendar months after doing the actions in paragraph (f)(1) of this AD, whichever occurs first, and repetitively thereafter at intervals not to exceed 100 hours TIS or 12 calendar months, whichever occurs first, do all of Action 2: of GippsAero Pty. Ltd. Mandatory Service Bulletin SB–GA8–2005–23, Issue 3, dated August 5, 2010.

(3) If a cracked or excessively worn slider is found during any inspection required in paragraph (f)(1) or (f)(2) of this AD, before further flight replace the slider.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: The MCAI and service information only list the Model GA8 in the applicability. The cargo door for the Model GA8–TC320 has the same design and this AD also applies to the Model GA8–TC320.

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: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; 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 Civil Aviation Safety Authority AD No. AD/GA8/3, Amdt 2, dated August 11, 2010, and GippsAero Pty. Ltd. Mandatory Service Bulletin SB–GA8–2005–

23, Issue 3, dated August 5, 2010, for related information.

Material Incorporated by Reference

(i) You must use GippsAero Pty. Ltd. Mandatory Service Bulletin SB–GA8–2005–23, Issue 3, dated August 5, 2010, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact GippsAero Pty. Ltd., Attn: Technical Services, P.O. Box 881, Morwell, Victoria 3840, Australia; telephone: + 61 03 5172 1200; fax: +61 03 5172 1201; Internet: *http://www.gippsaero.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 August 18, 2010.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–21063 Filed 8–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0827; Directorate Identifier 2010–CE–029–AD; Amendment 39–16412; AD 2010–17–18]

RIN 2120–AA64

Airworthiness Directives; Air Tractor, Inc. Models AT–802 and AT–802A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) to supersede AD 2010–13–08, which applies to all Air Tractor, Inc. (Air Tractor) Models AT–802 and AT–802A airplanes. AD 2010–13–08 currently requires you to repetitively inspect (using the eddy current method) the two outboard fastener holes in both of the wing main spar lower caps at the center splice joint for cracks and repair or replace any cracked spar cap. Since we issued 2010–13–08, we evaluated service information issued by Air Tractor and determined we need to add inspections, add modifications, and change the safe life for certain serial number (SN) ranges. Consequently, this AD would retain the actions of AD 2010–13–08 and would add inspections, add modifications, and change the safe life for certain SN ranges. We are issuing this AD to detect and correct cracks in the wing main spar lower cap at the center splice joint, which could result in failure of the spar cap and lead to wing separation and loss of control of the airplane.

DATES: This AD becomes effective on September 9, 2010.

On September 9, 2010, the Director of the Federal Register approved the incorporation by reference of Snow Engineering Co. Service Letter #80GG, revised December 21, 2005; Snow Engineering Co. Service Letter #284, dated October 4, 2009; Snow Engineering Co. Service Letter #281, dated August 1, 2009; Snow Engineering Co. Service Letter #245, dated April 25, 2005; Snow Engineering Co. Drawing Number 20995, Sheet 3, dated November 25, 2005; Snow Engineering Co. Drawing Number 20995, Sheet 2, Rev. D., dated November 25, 2005; and Snow Engineering Co. Drawing Number 20975, Sheet 4, Rev. A., dated January 7, 2009, listed in this AD.

As of April 21, 2006 (71 FR 19994, April 19, 2006), the Director of the Federal Register approved the incorporation by reference of Snow Engineering Co. Service Letter #240, dated September 30, 2004; and Snow Engineering Co. Process Specification #197, page 1, revised June 4, 2002; pages 2 through 4, dated February 23, 2001; and page 5, dated May 3, 2002, listed in this AD.

We must receive any comments on this AD by October 12, 2010.

ADDRESSES: Use one of the following addresses to comment 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.

To get the service information identified in this AD, contact Air Tractor, Inc., P.O. Box 485, Olney, Texas 76374; telephone: (940) 564–5616; fax: (940) 564–5612; E-mail: *airmail@airtractor.com;* Internet: *http://www.airtractor.com.*

To view the comments to this AD, go to *http://www.regulations.gov.* The docket number is FAA–2010–0827; Directorate Identifier 2010–CE–029–AD.

FOR FURTHER INFORMATION CONTACT: Andrew McAnaul, Aerospace Engineer, ASW–150 (c/o MIDO–43), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; telephone: (210) 308–3365; facsimile: (210) 308–3370.

SUPPLEMENTARY INFORMATION:

Discussion

Since 2000, we have issued several ADs related to the wing spar inspection and safe life on Air Tractor AT–400, AT–500, AT–600, and AT–800 series airplanes.

In 2001, we issued AD 2001–10–04, Amendment 39–12230 (66 FR 27014, May 16, 2001) to lower the safe life for the wing lower spar cap on Air Tractor AT–400, AT–500, and AT–800 series airplanes. This AD allowed for inspection (using eddy current methods) of the wing lower spar cap for airplanes that were at or over the lower safe life and for which parts were not available. Later that same year, we revised that AD to remove AT–800 series airplanes from the applicability that were equipped with the factory-supplied computerized fire gate (part number 80540) and engaged in full-time firefighting.

In 2002, we issued AD 2002–11–05, Amendment 39–12766 (67 FR 37967, May 31, 2002) that retained the actions for the AT–802 series airplanes and further reduced the safe life for certain AT–400 series airplanes and certain AT–500 series airplanes that either incorporate or have incorporated Marburger winglets.

After receiving reports of fatigue cracking found on three Model AT–802A airplanes that were below the reduced safe life established in AD 2001–10–04, we issued AD 2006–08–09, Amendment 39–14565 (71 FR 27794, May 12, 2006). AD 2006–08–09 required repetitively inspecting the two outboard fastener holes in both of the wing main spar lower caps at the center splice joint for cracks and repairing or replacing any cracked spar cap.

After issuing AD 2006–08–09, we determined the need to clarify the affected SN applicability. Models AT–

802 and AT–802A share a common SN range. Sometimes service information listed only one of the models with a starting or ending SN within a SN range, depending on which model was produced with that specific SN, even though the service information applied to both models. We superseded AD 2006–08–09 and issued AD 2010–13–08, Amendment 39–16339 (75 FR 35616, June 23, 2010) to retain the actions from AD 2006–08–09, clarify serial number applicability, and add an option of modifying the wing main spar lower caps to extend the safe life limit.

After completing fatigue analysis on Models AT–802 and AT–802A airplanes, Air Tractor issued service information that adds inspections, adds modifications, and changes the safe life for certain SN ranges. Since we issued 2010–13–08, we evaluated this new service information and determined the need to add inspections, add modifications, and change the safe life for certain SN ranges.

This condition, if not corrected, could result in failure of the spar cap and lead to wing separation and loss of control of the airplane.

Relevant Service Information

We reviewed the following service information from Snow Engineering Co.:

- Service Letter #80GG, revised December 21, 2005;
- Service Letter #284, dated October 4, 2009;
- Service Letter #281, dated August 1, 2009;
- Service Letter #245, dated April 25, 2005;
- Service Letter #240, dated September 30, 2004;
- Process Specification #197, page 1, revised June 4, 2002; pages 2 through 4, dated February 23, 2001; and page 5, dated May 3, 2002;
- Drawing Number 20995, Sheet 3, dated November 25, 2005;
- Drawing Number 20995, Sheet 2, Rev. D., dated November 25, 2005; and
- Drawing Number 20975, Sheet 4, Rev. A., dated January 7, 2009.

The service information describes procedures for the following actions:

- Inspection (repetitively) of the two outboard fastener holes in both of the wing main spar lower caps at the center splice joint for cracks;
- Repair or replacement of any cracked spar cap; and
- Modification option to extend the safe life limit.

FAA's Determination and Requirements of This AD

We are issuing this AD because we evaluated all the information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This AD requires you to repetitively inspect (using the eddy current method) the two outboard fastener holes in both of the wing main spar lower caps at the center splice joint for cracks and repair or replace any cracked spar cap.

FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, 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 an opportunity for public comment. We invite you to send any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number "FAA–2010–0827; Directorate Identifier 2010–CE–029–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 we receive concerning 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 Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation.

To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. In accordance with Section 608 of the Regulatory Flexibility Act, an agency head may waive or delay completion of some or all of the requirements of Section 603 by providing a written finding that this final rule is being promulgated in response to an emergency that makes compliance or timely compliance with the provisions of Section 603 impracticable.

We are performing a review to determine whether this final rule AD action will have a significant economic impact on a substantial number of small entities. However, the immediate safety of flight conditions of this AD action make compliance with the provisions of Section 603 impracticable. Our justification for immediate adoption of this rule, and therefore of impracticability, is stated in FAA's Justification and Determination of the Effective Date. After we determine whether this final rule AD action has a significant economic impact on a substantial number of small entities or not, we will publish in the **Federal Register** our determination and, if required, our final regulatory flexibility analysis.

Examining the AD Docket

You may examine the AD docket that contains the AD, the regulatory evaluation, any comments received, and other information 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 Docket Office (telephone (800) 647–5527) is located at the street address stated 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 Airworthiness Directive (AD) 2010–13–08, Amendment 39–16339 (75 FR 35616, June 23, 2010), and by adding a new AD to read as follows:

2010–17–18 Air Tractor, Inc.: Amendment 39–16412; Docket No. FAA–2010–0827; Directorate Identifier 2010–CE–029–AD.

Effective Date

(a) This AD becomes effective on September 9, 2010.

Affected ADs

(b) This AD supersedes AD 2010–13–08; Amendment 39–16339.

Applicability

(c) This AD affects Models AT–802 and AT–802A airplanes, all serial numbers (SNs) beginning with –0001, that are:

(1) Certificated in any category;

(2) Engaged in agricultural dispersal operations, including those airplanes that have been converted from fire fighting to agricultural dispersal or airplanes that convert between fire fighting and agricultural dispersal;

(3) Not equipped with the factory-supplied computerized fire gate (part number (P/N) 80540); and

(4) Not engaged in only full-time fire fighting.

Subject

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

Unsafe Condition

(e) This AD results from our determination that we need to require the actions in the new service information to add inspections, add modifications, and change the safe life for certain SN ranges. We are issuing this AD to detect and correct cracks in the wing main spar lower cap at the center splice joint, which could result in failure of the spar cap and lead to wing separation and loss of control of the airplane.

Compliance

(f) To address this problem for Models AT–802 and AT–802A airplanes, SNs –0001 through –0091, you must do the following, unless already done:

TABLE 1—ACTIONS, COMPLIANCE, AND PROCEDURES

Actions	Compliance	Procedures
(1) Eddy current inspect for cracks the center splice joint outboard two fastener holes in both the left and right wing main spar lower caps.	Initially inspect upon accumulating 1,700 hours time-in-service (TIS) or within the next 50 hours TIS after April 21, 2006 (the effective date of AD 2006–08–09), whichever occurs later, and repetitively thereafter at intervals not to exceed 800 hours TIS. If, before September 9, 2010 (the effective date of this AD), you installed the center splice plate and extended 8-bolt splice blocks, use the inspection compliance times found in paragraph (f)(5) of this AD.	Follow Snow Engineering Co. Process Specification #197, page 1, revised June 4, 2002; pages 2 through 4, dated February 23, 2001; and page 5, dated May 3, 2002.

TABLE 1—ACTIONS, COMPLIANCE, AND PROCEDURES—Continued

Actions	Compliance	Procedures
(2) If you find any cracks as a result of any inspection required in paragraph (f)(1) of this AD, do the following actions: (i) For cracks that can be repaired, repair the airplane by doing the following actions: (A) Install center splice plate, P/N 20997–2, and extended 8-bolt splice blocks, P/N 20985–1 & –2, and cold-work the lower spar cap fastener holes; and (B) Eddy current inspect for cracks the center splice joint outboard two fastener holes in both the left and right wing main spar lower caps. This eddy current inspection is required as part of the modification and is separate from the inspections required in paragraph (f)(1) of this AD. (ii) For cracks that cannot be repaired by incorporating the modification specified above, do the actions to replace the lower spar caps and associated parts listed following the procedures identified in paragraph (f)(3) of this AD.	Before further flight after the inspection where a crack was found. If, before the airplane reaches a total of 3,200 hours TIS, you repair your airplane following paragraph (f)(2)(i) of this AD, you must do the eddy current inspections following the compliance times found in paragraph (f)(5) of this AD. If, at 3,200 hours TIS or after, you repair your airplane following paragraph (f)(2)(i) of this AD, this repair terminates the inspection requirements of paragraph (f)(1) of this AD.	Follow Snow Engineering Co. Service Letter #284, dated October 4, 2009; Snow Engineering Co. Process Specification #197, page 1, revised June 4, 2002; pages 2 through 4, dated February 23, 2001; and page 5, dated May 3, 2002; Snow Engineering Co. Drawing Number 20995, Sheet 2, Rev. D., dated November 25, 2005; and Snow Engineering Co. Service Letter #240, dated September 30, 2004.
(3) Replace the wing main spar lower caps, the web plates, the center joint splice blocks and hardware, and the wing attach angles and hardware, and install the steel web splice plate. This replacement terminates the repetitive inspections required in paragraph (f)(1) of this AD.	(i) Do the replacement at whichever of the following compliance times occurs first: (A) Before further flight when cracks are found that cannot be repaired by incorporating the modification in paragraph (f)(2)(i) of this AD; or (B) Before or when the airplane reaches the wing main spar lower cap safe life of a total of 4,100 hours TIS or within the next 50 hours TIS after September 9, 2010 (the effective date of this AD), whichever occurs later. (ii) After this replacement the new spar safe life is 11,700 hours TIS. If, before September 9, 2010 (the effective date of this AD), an airplane main spar lower cap was replaced with P/N 21083–1/–2, the spar safe life for that P/N spar cap is 8,000 hours TIS until the main spar lower cap is replaced with P/N 21118–1/–2. The new spar safe life for P/N 21118–1/–2 is 11,700 hours. (iii) To extend the initial 4,100 hours TIS safe life of the wing main spar lower cap to a total of 8,000 hours TIS, you may incorporate the optional modification specified in paragraph (f)(4) of this AD.	Follow Snow Engineering Co. Service Letter #284, dated October 4, 2009; Snow Engineering Co. Service Letter #80GG, revised December 21, 2005; Snow Engineering Co. Drawing Number 20975, Sheet 4, Rev. A, dated January 7, 2009.
(4) To extend the safe life of the wing main spar lower cap to a total of 8,000 hours TIS, you may incorporate the following optional modification. This modification terminates the repetitive inspections required in paragraph (f)(1) of this AD, unless you performed the modification before the airplane reaches a total of 3,200 hours TIS to repair cracks: (i) Install center splice plate, P/N 20997–2, and extended 8-bolt splice blocks, P/N 20985–1 & –2, and cold-work the lower spar cap fastener holes; and	Modify at whichever of the following compliance times occurs first: (A) Before further flight after any inspection required in paragraph (f)(1) of this AD where a crack is found. If you modify your airplane before the airplane reaches a total of 3,200 hours TIS to repair cracks as required in paragraph (f)(2)(i) of this AD, you must do the eddy current inspections following the compliance times found in paragraph (f)(5) of this AD.	Follow Snow Engineering Co. Service Letter #284, dated October 4, 2009; Snow Engineering Co. Process Specification #197, page 1, revised June 4, 2002; pages 2 through 4, dated February 23, 2001; and page 5, dated May 3, 2002; Snow Engineering Co. Drawing Number 20995, Sheet 2, Rev. D., dated November 25, 2005; and Snow Engineering Co. Service Letter #240, dated September 30, 2004.

TABLE 1—ACTIONS, COMPLIANCE, AND PROCEDURES—Continued

Actions	Compliance	Procedures
(ii) Eddy current inspect for cracks the center splice joint outboard two fastener holes in both the left and right wing main spar lower caps. This eddy current inspection is required as part of the modification and is separate from the inspections required in paragraph (f)(1) of this AD.	(B) Between 3,200 hours TIS and 4,100 hours TIS.	

(5) If, before September 9, 2010 (the effective date of this AD) or as a result of performing the repair for cracks following paragraph (f)(2) of this AD, you installed the center splice plate and extended 8-bolt splice blocks, use the following table for compliance times to do the eddy current inspections required in paragraph (f)(1) of this AD. If you find any cracks as a result of any inspection following the compliance times in the following table, you must do the replacement action in paragraph (f)(2)(ii) of this AD:

TABLE 2—EDDY CURRENT INSPECTION COMPLIANCE TIMES

Condition of the airplane	Initially inspect	Repetitively inspect thereafter at intervals not to exceed
(i) If the airplane has already had the center splice plate and extended 8-bolt splice blocks installed at or after 3,200 hours TIS but the fastener holes have not been cold worked, at any time you may cold work the fastener holes to terminate the repetitive inspection requirements of this paragraph.	When the airplane reaches a total of 2,400 hours TIS after the modification or within the next 100 days after September 9, 2010 (the effective date of this AD), whichever occurs later.	1,200 hours TIS until the 8,000 hours TIS spar replacement time.
(ii) Before reaching 3,200 hours TIS, the airplane had the center splice plate and extended 8-bolt splice blocks already installed but the fastener holes have not been cold worked.	When the airplane reaches a total of 2,400 hours TIS after the modification or within the next 100 days after September 9, 2010 (the effective date of this AD), whichever occurs later.	1,200 hours TIS. Upon reaching 4,800 hours TIS after the modification, inspect repetitively thereafter at intervals not to exceed 600 hours TIS until the 8,000 hours TIS spar replacement time.
(iii) Before reaching 3,200 hours TIS, the airplane had the center splice plate and extended 8-bolt splice blocks installed and the fastener holes have been cold worked.	When the airplane reaches a total of 4,800 hours TIS after the modification or within the next 100 days after September 9, 2010 (the effective date of this AD), whichever occurs later.	600 hours TIS until the 8,000 hours TIS spar replacement time.

(g) To address this problem for AT–802 and AT–802A airplanes, SNs –0092 through –0101, you must do the following, unless already done:

TABLE 3—ACTIONS, COMPLIANCE, AND PROCEDURES

Actions	Compliance	Procedures
(1) Eddy current inspect for cracks the center splice joint outboard two fastener holes in both the left and right wing main spar lower caps.	Initially inspect upon accumulating 1,700 hours TIS or within the next 50 hours TIS after September 9, 2010 (the effective date of this AD), whichever occurs later, and repetitively thereafter at intervals not to exceed 800 hours TIS. If the center splice plate, P/N 20994–2, is installed as specified in paragraph (g)(4) of this AD, do the repetitive inspections at intervals not to exceed 2,000 hours TIS.	Follow Snow Engineering Co. Service Letter #284, dated October 4, 2009; and Snow Engineering Co. Process Specification #197, page 1, revised June 4, 2002; pages 2 through 4, dated February 23, 2001; and page 5, dated May 3, 2002.
(2) If you find any cracks as a result of any inspection required by paragraph (g)(1) of this AD, do the following actions. This repair modification terminates the repetitive inspections required in paragraph (g)(1) of this AD: (i) For cracks that can be repaired, repair the airplane by doing the following actions: (A) Install the 9-bolt splice blocks and cold-work the lower spar cap fastener holes;	Before further flight after the inspection where a crack was found.	Follow Snow Engineering Co. Service Letter #284, dated October 4, 2009; and Snow Engineering Co. Process Specification #197, page 1, revised June 4, 2002; pages 2 through 4, dated February 23, 2001; and page 5, dated May 3, 2002, Snow Engineering Co. Service Letter #281, dated August 1, 2009; and Snow Engineering Co. Drawing Number 20995, Sheet 3, dated November 25, 2005.

TABLE 3—ACTIONS, COMPLIANCE, AND PROCEDURES—Continued

Actions	Compliance	Procedures
(B) Eddy current inspect for cracks the center splice joint outboard two fastener holes in both the left and right wing main spar lower caps. This eddy current inspection is required as part of the repair and is separate from the inspections required in paragraph (g)(1) of this AD; and (C) Install the center splice plate, P/N 20994–2, per paragraph (g)(4) if not already installed. (ii) For cracks that cannot be repaired by doing the actions in paragraph (g)(2)(i) of this AD, replace the lower spar caps and associated parts listed following the procedures identified in paragraph (g)(3) of this AD.		
(3) Replace the wing main spar lower caps, the web plates, the center joint splice blocks and hardware, and the wing attach angles and hardware, and install the steel web splice plate. This replacement terminates the repetitive inspections required in paragraph (g)(1) of this AD.	(i) Do the replacement at whichever of the following compliance times occurs first: (A) Before further flight when cracks are found that cannot be repaired by incorporating the modification in paragraph (g)(2)(i) of this AD; or (B) Before or when the airplane reaches the wing main spar lower cap safe life of a total of 4,100 hours TIS or within the next 50 hours TIS after September 9, 2010 (the effective date of this AD), whichever occurs later. (ii) To extend the initial 4,100 hours TIS safe life of the wing main spar lower cap to a total of 8,000 hours TIS, you may incorporate the optional modification specified in paragraph (g)(4) of this AD. (iii)After replacement of the old spar with the new lower spar cap, P/N 21118–1/–2, the new spar safe life is 11,700 hours TIS.	Follow Snow Engineering Co. Service Letter #284, dated October 4, 2009; Snow Engineering Co. Service Letter #80GG, revised December 21, 2005; Snow Engineering Co. Drawing Number 20975, Sheet 4, Rev. A, dated January 7, 2009.
(4) To extend the safe life of the wing main spar lower cap to a total of 8,000 hours TIS, you may incorporate the following optional modification: (i) Install center splice plate, P/N 20994–2, if not already installed as part of a repair, and cold-work the lower spar cap fastener holes; and (ii) Eddy current inspect for cracks the center splice joint outboard two fastener holes in both the left and right wing main spar lower caps. This eddy current inspection is required as part of the modification and is separate from the inspections required in paragraph (g)(1) of this AD.	Before the airplane reaches a total of 4,100 hours TIS. After installation of the center splice plate, P/N 20994–2, do the repetitive inspections required in paragraph (g)(1) at intervals not to exceed 2,000 hours TIS. If as of September 9, 2010 (the effective date of this AD) you have already exceeded the 4,100 hours TIS threshold for extending the safe life to 8,000 hours TIS, you may be eligible for an alternative method of compliance following paragraph (m) in this AD.	Follow Snow Engineering Co. Service Letter #284, dated October 4, 2009; Snow Engineering Co. Process Specification #197, page 1, revised June 4, 2002; pages 2 through 4, dated February 23, 2001; and page 5, dated May 3, 2002; Snow Engineering Co. Drawing Number 20975, Sheet 4, Rev. A., dated January 7, 2009; and Snow Engineering Co. Service Letter #245, dated April 25, 2005.
(5) If you find any cracks as a result of any repetitive inspection required by paragraph (g)(4) of this AD, do the following actions. This repair modification terminates the repetitive inspections required in paragraph (g)(4) of this AD: (i) For cracks that can be repaired, repair the airplane by doing the following actions: (A) Install the 9-bolt splice blocks and cold-work the lower spar cap fastener holes; and	Before further flight after the inspection where a crack was found.	Follow Snow Engineering Co. Service Letter #284, dated October 4, 2009; and Snow Engineering Co. Process Specification #197, page 1, revised June 4, 2002; pages 2 through 4, dated February 23, 2001; and page 5, dated May 3, 2002, Snow Engineering Co. Service Letter #281, dated August 1, 2009; and Snow Engineering Co. Drawing Number 20995, Sheet 3, dated November 25, 2005.

TABLE 3—ACTIONS, COMPLIANCE, AND PROCEDURES—Continued

Actions	Compliance	Procedures
(B) Eddy current inspect for cracks the center splice joint outboard two fastener holes in both the left and right wing main spar lower caps. This eddy current inspection is required as part of the repair and is separate from the inspections required in paragraph (g)(1) of this AD. (ii) For cracks that cannot be repaired by doing the actions in paragraph (g)(5)(i) of this AD, replace the lower spar caps and associated parts listed following the procedures identified in paragraph (g)(3) of this AD.		

(h) To address this problem for AT–802 and AT–802A airplanes, SNs –0102 through –0178, you must do the following, unless already done:

TABLE 4—ACTIONS, COMPLIANCE, AND PROCEDURES

Actions	Compliance	Procedures
(1) Do an initial eddy current inspection for cracks of the center splice joint outboard two fastener holes in both the left and right wing main spar lower caps. After this initial inspection, you may do the optional cold-working of the lower spar cap fastener holes to increase the hours TIS between repetitive inspections required in paragraph (h)(2) of this AD.	Before the airplane reaches a total of 5,500 hours TIS or within the next 50 hours TIS after September 9, 2010 (the effective date of this AD), whichever occurs later.	Follow Snow Engineering Co. Process Specification #197, page 1, revised June 4, 2002; pages 2 through 4, dated February 23, 2001; and page 5, dated May 3, 2002; Snow Engineering Co. Service Letter #245, dated April 25, 2005; and Snow Engineering Co. Service Letter #284, dated October 4, 2009.
(2) Repetitively eddy current inspect for cracks the center splice joint outboard two fastener holes in both the left and right wing main spar lower caps.	(i) *For fastener holes that are cold-worked:* After the initial inspection, repetitively thereafter inspect at intervals not to exceed 2,200 hours TIS. (ii) *For fastener holes not cold-worked:* After the initial inspection, repetitively thereafter inspect at intervals not to exceed 1,100 hours TIS.	Follow Snow Engineering Co. Process Specification #197, page 1, revised June 4, 2002; pages 2 through 4, dated February 23, 2001; and page 5, dated May 3, 2002; Snow Engineering Co. Service Letter #284, dated October 4, 2009; and (optional) Snow Engineering Co. Service Letter #245, dated April 25, 2005.
(3) If you find any cracks as a result of any inspection required by paragraphs (h)(1) and (h)(2) of this AD, do the following actions. This modification terminates the repetitive inspections required in paragraph (h)(1) and (h)(2) of this AD: (i) For cracks that can be repaired, repair the airplane by doing the following actions: (A) Install the 9-bolt splice blocks and cold-work the lower spar cap fastener holes; and (B) Eddy current inspect for cracks the center splice joint outboard two fastener holes in both the left and right wing main spar lower caps. This eddy current inspection is required as part of the repair and is separate from the inspections required in paragraphs (h)(1) and (h)(2) of this AD. (ii) For cracks that cannot be repaired by doing the actions in paragraph (h)(3)(i) of this AD, replace the lower spar caps and associated parts listed following the procedures in paragraph (h)(4) of this AD.	Before further flight after the inspection where a crack was found.	Follow Snow Engineering Co. Service Letter #281, dated August 1, 2009; and Snow Engineering Co. Drawing Number 20995, Sheet 3, dated November 25, 2005.

TABLE 4—ACTIONS, COMPLIANCE, AND PROCEDURES—Continued

Actions	Compliance	Procedures
(4) Replace the wing main spar lower caps, the web plates, the center joint splice blocks and hardware, and the wing attach angles and hardware, and install the steel web splice plate. This replacement terminates the repetitive inspections required in paragraphs (h)(1) and (h)(2) of this AD.	(i) Do the replacement at whichever of the following compliance times occurs first: (A) Before further flight when cracks are found that cannot be repaired by incorporating the repair in paragraph (h)(3)(i) of this AD; or (B) Before or when the airplane reaches the wing main spar lower cap safe life of a total of 8,000 hours TIS or within the next 50 hours TIS after September 9, 2010 (the effective date of this AD), whichever occurs later. (ii) After this replacement the new spar safe life is 11,700 hours TIS.	Follow Snow Engineering Co. Service Letter #284, dated October 4, 2009; Snow Engineering Co. Service Letter #80GG, revised December 21, 2005; Snow Engineering Co. Drawing Number 20975, Sheet 4, Rev. A, dated January 7, 2009.

(i) To address this problem for AT–802 and AT–802A airplanes, SNs –0179 through –0269, you must do the following, unless already done:

TABLE 5—ACTIONS, COMPLIANCE, AND PROCEDURES

Actions	Compliance	Procedures
Replace the wing main spar lower caps, the web plates, the center joint splice blocks and hardware, and the wing attach angles and hardware, and install the steel web splice plate.	By the 8,000 hours TIS safe-life or within the next 50 hours TIS after September 9, 2010 (the effective date of this AD), whichever occurs later. After this replacement the subsequent new spar safe life is 11,700 hours TIS.	Follow Snow Engineering Co. Service Letter #284, dated October 4, 2009; Snow Engineering Co. Service Letter #80GG, revised December 21, 2005; Snow Engineering Co. Drawing Number 20975, Sheet 4, Rev. A, dated January 7, 2009.

(j) To address this problem for AT–802 and AT–802A airplanes, SNs –0270 and subsequent, you must do the following, unless already done:

TABLE 6—ACTIONS, COMPLIANCE, AND PROCEDURES

Actions	Compliance	Procedures
Replace the wing main spar lower caps, the web plates, the center joint splice blocks and hardware, and the wing attach angles and hardware, and install the steel web splice plate.	By the 11,700 hours TIS safe-life or within the next 50 hours TIS after September 9, 2010 (the effective date of this AD), whichever occurs later. After this replacement the subsequent new spar safe life is 11,700 hours TIS.	Follow Snow Engineering Co. Service Letter #284, dated October 4, 2009; Snow Engineering Co. Service Letter #80GG, revised December 21, 2005; Snow Engineering Co. Drawing Number 20975, Sheet 4, Rev. A, dated January 7, 2009.

(k) Report any crack from any inspection required in paragraphs (f), (g), or (h) of this AD within 10 days after the cracks are found on the form in Figure 1 of this AD.

(1) Send your report to Andrew McAnaul, Aerospace Engineer, ASW–150 (c/o MIDO–43), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; telephone: (210) 308–3365; facsimile: (210) 308–3370.

(2) The Office of Management and Budget (OMB) approved the information collection requirements contained in this regulation under the provisions of the Paperwork Reduction Act and assigned OMB Control Number 2120–0056.

Special Permit Flight

(l) Under 14 CFR part 39.23, we are allowing special flight permits for the purpose of compliance with this AD under the following conditions:

(1) Only operate in day visual flight rules (VFR).

(2) Ensure that the hopper is empty.

(3) Limit airspeed to 135 miles per hour (mph) indicated airspeed (IAS).

(4) Avoid any unnecessary g-forces.

(5) Avoid areas of turbulence.

(6) Plan the flight to follow the most direct route.

AD 2010–17–18 INSPECTION REPORT

[REPORT *ONLY* IF CRACKS ARE FOUND]

General Information	
1. Inspection Performed By:	2. Phone:
3. Aircraft Model:	4. Aircraft Serial Number:
5. Engine Model Number:	6. Aircraft Total Hours TIS:

AD 2010–17–18 INSPECTION REPORT—Continued

[REPORT *ONLY* IF CRACKS ARE FOUND]

7. Wing Total Hours TIS:	8. Lower Spar Cap Hours TIS:
Previous Inspection/Repair History	
9. Has the lower spar cap been inspected (eddy-current, dye penetrant, magnetic particle, or ultrasound) before? ☐ Yes ☐ No	If yes, an inspection has occurred: Date:_____ Inspection Method:_____ Lower Spar Cap TIS:_____ Cracks found? ☐ Yes ☐ No
10. Has there been any major repair or alteration performed to the spar cap? ☐ Yes ☐ No	If yes, specify (Description and hours TIS):
Inspection for AD 2010–17–18	
11. Date of AD inspection: Inspection Results:	11a. Cracks found: ☐ Left Hand ☐ Right Hand
11b. Crack Length:_____ Location:_____	11c. Does drilling hole to next larger size remove all traces of the crack(s)? ☐ Yes ☐ No
12d. Corrective Action Taken:	

Mail report (only if you find any cracks as a result of the inspection for AD 2010–17–18) to: Andrew McAnaul, Aerospace Engineer, ASW–150 (c/o MIDO–43), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; telephone: (210) 308–3365; facsimile: (210) 308–3370.

Figure 1

Alternative Methods of Compliance (AMOCs)

(m) The Manager, Fort Worth Airplane 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: Andy McAnaul, Aerospace Engineer, ASW–150, FAA San Antonio MIDO–43, 10100 Reunion Pl., Ste. 650, San Antonio, Texas 78216, phone: (210) 308–3365, fax: (210) 308–3370. 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.

(n) AMOCs approved for AD 2010–13–08 are not approved for this AD.

Material Incorporated by Reference

(o) You must use Snow Engineering Co. Service Letter #80GG, revised December 21, 2005; Snow Engineering Co. Service Letter #284, dated October 4, 2009; Snow Engineering Co. Service Letter #281, dated August 1, 2009; Snow Engineering Co. Service Letter #245, dated April 25, 2005; Snow Engineering Co. Service Letter #240, dated September 30, 2004; Snow Engineering Co. Process Specification #197, page 1, revised June 4, 2002; pages 2 through 4, dated February 23, 2001; and page 5, dated May 3, 2002; Snow Engineering Co. Drawing Number 20995, Sheet 3, dated November 25, 2005; Snow Engineering Co. Drawing Number 20995, Sheet 2, Rev. D., dated November 25, 2005; and Snow Engineering Co. Drawing Number 20975, Sheet 4, Rev. A., dated January 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 Snow Engineering Co. Service Letter #80GG, revised December 21, 2005; Snow Engineering Co. Service Letter #284, dated October 4, 2009; Snow Engineering Co. Service Letter #281, dated August 1, 2009; Snow Engineering Co. Service Letter #245, dated April 25, 2005; Snow Engineering Co. Drawing Number 20995, Sheet 3, dated November 25, 2005; Snow Engineering Co. Drawing Number 20995, Sheet 2, Rev. D., dated November 25, 2005; and Snow Engineering Co. Drawing Number 20975, Sheet 4, Rev. A., dated January 7, 2009, under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On April 21, 2006 (71 FR 19994, April 19, 2006), the Director of the Federal Register approved the incorporation by reference of Snow Engineering Co. Service Letter #240, dated September 30, 2004; and Snow Engineering Co. Process Specification #197, page 1, revised June 4, 2002; pages 2 through 4, dated February 23, 2001; and page 5, dated May 3, 2002.

(3) For service information identified in this AD, contact Air Tractor, Inc., P.O. Box 485, Olney, Texas 76374; telephone: (940) 564–5616; fax: (940) 564–5612; E-mail: *airmail@airtractor.com;* Internet: *http://www.airtractor.com.*

(4) 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.

(5) 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 August 11, 2010.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–20555 Filed 8–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0497; Directorate Identifier 2009–NM–019–AD; Amendment 39–16417; AD 2010–18–04]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 Airplanes; and Model ERJ 190–100 LR, –100 IGW, –100 STD, –200 STD, –200 LR, and –200 IGW 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:

> It has been found the possibility of cracks developing in the ram air turbine (RAT) machined support, located in the forward compartment [zone 124] of [the] aircraft, due to downlock pin not [being] pull[ed] during its retraction. In case of RAT failure or malfunction, it will not provide electrical power to essential systems of [the] aircraft in [an] electrical emergency situation.
>
> * * * * *

Lack of electrical power 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 September 29, 2010.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of September 29, 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: Kenny Kaulia, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2848; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on June 2, 2009 (74 FR 26315). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> It has been found the possibility of cracks developing in the ram air turbine (RAT) machined support, located in the forward compartment [zone 124] of [the] aircraft, due to downlock pin not [being] pull[ed] during its retraction. In case of RAT failure or malfunction, it will not provide electrical power to essential systems of [the] aircraft in [an] electrical emergency situation.
>
> * * * * *

Lack of electrical power could result in reduced controllability of the airplane. Corrective actions include a detailed visual inspection for cracking of the RAT machined support, replacing the support with a new part if any crack is found, and reinforcing or replacing the support if no crack is found. 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 comments received.

Request To Change the RAT Deployment Criteria

EMBRAER and JetBlue Airways request that we revise the NPRM so that operators are allowed to reach the maximum time of 5,000 flight hours provided that the RAT machined support is inspected for cracks after each RAT deployment. EMBRAER states that the original undamaged support does not represent an unsafe condition, and that to damage it to an unacceptable level, it would be necessary to have two incorrect stows of the RAT.

JetBlue Airways states that the NPRM specifies that installing reinforcements or replacing the RAT support must be done before the next flight after the next two RAT deployments or within 5,000 flight hours. JetBlue Airways notes that it is difficult to track the number of deployments as the deployment could be used as part of troubleshooting in an airplane maintenance manual task. JetBlue Airways specifies that an inspection could be done after RAT deployment during MRB tasks.

We agree with the request to allow the option to do the above procedures. We have determined that allowing the option specified in paragraph (f)(1)(ii) of this AD to do the installation or replacement within 5,000 flight hours provided that the RAT machined support is inspected for cracking after each RAT deployment will provide an acceptable level of safety. We have revised paragraph (f)(1) of this AD accordingly. This has been coordinated with Agência Nacional de Aviação Civil (ANAC). We have revised the final rule accordingly.

Request To Remove the RAT Deployment Criteria

Air Transport Association of America (ATA), on behalf of its member US Airways, requests that we remove the RAT deployment criteria specified in paragraph (f)(1)(ii) of the NPRM. US Airways states that the deployment criterion specified in paragraph (f)(1)(ii) of the NPRM is confusing and would be difficult to document. US Airways also states that it is unclear whether a RAT deployment via unscheduled maintenance must be counted. US Airways and JetBlue Airways both state that the maintenance review board (MRB) task specifies a manual RAT deployment and an auto RAT deployment, and questions if doing the MRB tasks counts as two RAT deployments.

We do not agree to remove the RAT deployment criteria. However, we agree to clarify what counts as a RAT deployment in this AD. A flight deployment means any RAT deployment that occurs during flight, whether scheduled or unscheduled. RAT deployment during a MRB task procedure means doing both a manual and automatic RAT deployment and counts as two RAT deployments. No change has been made to the AD in this regard.

Request To Allow Further Flights With a Cracked Upper Lug

EMBRAER and Air Transport Association (ATA), on behalf of its member US Airways, request that we revise the NPRM to remove the requirement to replace cracked upper lugs before further flight. EMBRAER requests that operators be allowed to operate airplanes up to 600 hours with a cracked upper lug. EMBRAER states that the RAT was designed to remain operational with one damaged machined support and that the 600 hours were deemed appropriate by risk analysis calculations.

Air Transport Association (ATA), on behalf of its member US Airways, requests that the more stringent criteria to replace any cracked lug of the RAT machined support with a new support before further flight, as specified in the "FAA AD Differences" section of the NPRM, be removed. US Airways states that the more stringent criteria are not justified and would cause unnecessary operational disruptions.

We disagree with the request to allow airplanes to operate with a cracked upper lug. We have reviewed the risk analysis and found that there is no evidence that flights with a cracked upper lug, once found, would provide an adequate level of safety. If additional data are presented that would justify operating with a cracked upper lug, we might consider further rulemaking on this issue. We have not changed the AD in this regard.

Request To Allow the Use of Future Revised Service Bulletins

Air Transport Association (ATA) on behalf of its member US Airways requests that the "Actions and Compliance" paragraph of the proposed NPRM be revised to allow use of revised service bulletins. US Airways states that due to possible material shortages, alternative materials may be specified in a future revised service bulletin.

We disagree with the request to allow the use of future revised service bulletins. Using the phrase "or later FAA-approved revisions" in reference to a specific service bulletin in an AD violates Office of the Federal Register regulations for approving materials that are incorporated by reference. The procedures included in EMBRAER Service Bulletins 170–53–0057, dated February 21, 2008; and 190–53–0027, dated February 18, 2008; provide an adequate level of safety. If the service bulletin is revised later, an operator may apply for approval of an alternative method of compliance (AMOC) in accordance with the procedures outlined in paragraph (g) of this AD to be allowed to use that service bulletin revision. We have not changed the AD in this regard.

Request To Add Note Regarding Correct RAT Stow Procedure

EMBRAER requests that a note be added to the AD to reaffirm the correct RAT stow procedure.

We agree. We have added Note 1 to this AD to specify the correct stow procedure.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We 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 163 products of U.S. registry. We also estimate that it will take about 60 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 $7,535 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 $2,059,505, or $12,635 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:

2010–18–04 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–16417. Docket No. FAA–2009–0497; Directorate Identifier 2009–NM–019–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective September 29, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to EMBRAER Model ERJ 170–100 LR, –100 STD, –100 SE, –100 SU, –200 LR, –200 STD, and –200 SU airplanes, serial numbers 17000002, 17000004 through 17000013 inclusive, and 17000015 through 17000208 inclusive; and Model ERJ 190–100 LR, –100 IGW, –100 STD, –200 STD, –200 LR, and –200 IGW airplanes, serial numbers 19000002, 19000004, and 19000006 through 19000152 inclusive; certificated in any category.

Subject

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

Reason

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

It has been found the possibility of cracks developing in the ram air turbine (RAT) machined support, located in the forward compartment [zone 124] of [the] aircraft, due to downlock pin not [being] pull[ed] during its retraction. In case of RAT failure or malfunction, it will not provide electrical power to essential systems of [the] aircraft in [an] electrical emergency situation.

* * * * *

Lack of electrical power could result in reduced controllability of the airplane. Corrective actions include a detailed visual inspection for cracking of the RAT machined support, replacing the support with a new part if any crack is found, and reinforcing or replacing the support if no crack is found.

Actions and Compliance

(f) Unless already done, within 600 flight hours after the effective date of this AD: Perform a detailed visual inspection for cracks in the RAT machined support, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 170–53–0057, dated February 21, 2008; or EMBRAER Service Bulletin 190–53–0027, dated February 18, 2008; as applicable.

(1) If no crack is found, do the actions in either paragraph (f)(1)(i) or (f)(1)(ii) of this AD.

(i) At the earlier of the times specified in paragraphs (f)(1)(i)(A) and (f)(1)(i)(B) of this AD, install reinforcements in the RAT machined support or replace the RAT machined support with a new support having part number 170–18676–405, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 170–53–0057, dated February 21, 2008; or EMBRAER Service Bulletin 190–53–0027, dated February 18, 2008; as applicable.

(A) Within 5,000 flight hours after accomplishing the inspection required by paragraph (f) of this AD.

(B) Before further flight after the next two RAT deployments—which can be a flight deployment or a ground deployment as part of a maintenance task—after accomplishing the inspection required by paragraph (f) of this AD.

(ii) Do the actions specified in paragraph (f)(1)(ii)(A) and (f)(1)(ii)(B) of this AD.

(A) Do the inspection specified in paragraph (f) of this AD before further flight after each RAT deployment—which can be a flight deployment or a ground deployment as part of a maintenance task—until the installation specified in paragraph (f)(1)(ii)(B) of this AD is accomplished or the replacement specified in paragraph (f)(2) of this AD is accomplished.

(B) Within 5,000 flight hours after accomplishing the inspection required by paragraph (f) of this AD, install reinforcements in the RAT machined support or replace the RAT machined support with a new support having part number 170–18676–405, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 170–53–0057, dated February 21, 2008; or EMBRAER Service Bulletin 190–53–0027, dated February 18, 2008; as applicable.

(2) If any cracking is found, before further flight replace the RAT machined support with a new support having part number 170–18676–405, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 170–53–0057, dated February 21, 2008; or EMBRAER Service Bulletin 190–53–0027, dated February 18, 2008; as applicable.

Note 1: Guidance on retracting the RAT without damaging the RAT machined support may be found in Task Number 24–23–00–840–801–A/200—Ram-Air-Turbine (RAT)—Retraction, of the EMBRAER 170/190 Airplane Maintenance Manual.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: Although the MCAI or service information allows further flight after cracks are found during compliance with the required action, paragraph (f)(2) of this AD requires that you replace any cracked lug of the RAT machined support with a new support before further flight.

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Kenny Kaulia, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2848; fax (425) 227–1149. 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, 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 Agência Nacional de Aviação Civil (ANAC) Airworthiness Directives 2008–10–05 and 2008–10–06, both dated November 10, 2008; EMBRAER Service Bulletin 170–53–0057, dated February 21, 2008; and EMBRAER Service Bulletin 190–53–0027, dated February 18, 2008; for related information.

Material Incorporated by Reference

(i) You must use EMBRAER Service Bulletin 170–53–0057, dated February 21, 2008; or EMBRAER Service Bulletin 190–53–0027, dated February 18, 2008; 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 Empresa Brasileira de Aeronautica S.A. (EMBRAER), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—BRASIL; telephone: +55 12 3927–5852 or +55 12 3309–0732; fax: +55 12 3927–7546; e-mail: *distrib@embraer.com.br*; Internet: *http://www.flyembraer.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 August 13, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–20843 Filed 8–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9495]

RIN 1545–BC61

Qualified Zone Academy Bonds; Obligations of States and Political Subdivisions; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to final regulations (TD 9495) that were published in the **Federal Register** on Friday, July 30, 2010 (75 FR 44901) providing guidance to state and local governments that issue qualified zone academy bonds and to banks, insurance companies, and other taxpayers that hold those bonds on the program requirements for qualified zone academy bonds.

DATES: This correction is effective on August 25, 2010, and is applicable on July 30, 2010.

FOR FURTHER INFORMATION CONTACT: Zoran Stojanovic, (202) 622–3980 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9495) that are the subject of this document are under section 1397E of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 9495) contain an error that may prove to be misleading and is in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR part 1 is corrected by making the following correcting amendment:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.1397E–1 is amended by revising the first sentence of paragraph (m)(3) to read as follows:

§ 1.1397E–1 Qualified zone academy bonds.

* * * * *

(m) * * *

(3) * * * Except to the extent inconsistent with the successor statutory provisions for QZABs in sections 54A and 54E or applicable public administrative or regulatory guidance under those provisions and except as otherwise provided in this paragraph (m)(3), issuers and taxpayers may apply these regulations to QZABs issued under sections 54A and 54E that are sold after October 3, 2008. * * *

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. C1–2010–21045 Filed 8–24–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9495]

RIN 1545–BC61

Qualified Zone Academy Bonds; Obligations of States and Political Subdivisions; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to final regulations (TD 9495) that were published in the **Federal Register** on Friday, July 30, 2010 (75 FR 44901) providing guidance to State and local governments that issue qualified zone academy bonds and to banks, insurance companies, and other taxpayers that hold those bonds on the program requirements for qualified zone academy bonds.

DATES: This correction is effective on August 25, 2010, and is applicable on July 30, 2010.

FOR FURTHER INFORMATION CONTACT: Zoran Stojanovic, (202) 622–3980 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9495) that are the subject of this document are under section 1397E of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 9495) contain an error that may prove to be misleading and is in need of clarification.

Correction of Publication

■ Accordingly, the publication of the final regulations (TD 9495) which were the subject of FR Doc. 2010–18678, is corrected as follows:

■ On page 44903, column 1, in the preamble, under the paragraph heading "Effective/Applicability Dates", lines 2 and 3 from the last paragraph of the column, the language "Act, effective for QZABs that are sold on or after October 3, 2008, section 1397E" is corrected to read "Act, effective for QZABs that are sold after October 3, 2008, section 1397E".

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. C1–2010–21046 Filed 8–24–10; 8:45 am]

BILLING CODE 4830–01–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. 2005–5]

Waiver of Statement of Account Filing Deadline for the 2010/1 Period

AGENCY: Copyright Office, Library of Congress.

ACTION: Extension of Cable Statement of Account Filing Deadline

SUMMARY: The Copyright Office extends the deadline for the filing of the 2010/1 cable statements of account to September 29, 2010. In granting the extension, the Office waives the filing requirements under Section 201.17(c)(1) of its rules. The passage of the Satellite Television Extension and Localism Act of 2010 (STELA) and the subsequent work by the Office to revise the cable statements of account, in light of STELA(s amendments to the Copyright Act, have impaired the timely availability of the on-line forms cable operators use to pay their royalty fees. These circumstances will make it extremely difficult for many cable operators to comply with the current deadline. For these reasons, therefore, the Office deems the extension necessary and in the public interest.

EFFECTIVE DATES: August 25, 2010.

FOR FURTHER INFORMATION CONTACT: Ben Golant, Assistant General Counsel, and Tanya M. Sandros, Deputy General Counsel, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: Section 111 of the Copyright Act ("Act"), title 17 of the United States Code ("Section 111"), provides cable operators with a statutory license to retransmit a performance or display a work embodied in a primary transmission made by a television station licensed by the Federal Communications Commission ("FCC"). Cable systems that retransmit broadcast signals in accordance with the provisions governing the statutory license set forth in Section 111 are required to pay royalty fees to the Copyright Office ("Office"). Payments made under the cable statutory license are remitted semi–annually to the Office which invests the royalties in United States Treasury securities pending distribution of these funds to those copyright owners who are entitled to receive a share of the fees.

Congress recently passed the Satellite Television Extension and Localism Act

of 2010 ("STELA"), Pub. L. No. 111–175 (2010). STELA amended the cable statutory license found in Section 111 of the Copyright Act as well as the distant and local satellite licenses found in Sections 119 and 122, respectively.[1] Among other updates, the new law revised the rates for the cable retransmission of distant broadcast signals and changed the method for calculating royalty fees. Cable operators now pay royalties on a "community–by–community" basis (that is, according to "subscriber groups") rather than on a system–wide basis as had been the case before STELA amended Section 111(d) of the Act. In addition, STELA now requires cable operators to pay for the retransmission of distant multicast streams in certain instances. STELA also broadened the definition of "local service area" found in Section 111(f) of the Act to accommodate a digital television station's technical service area. The President signed STELA on May 27, 2010, with a retroactive effective date of February 27, 2010.

Cable operators must pay royalties under the Section 111 license on a semi–annual basis using a Statement of Account ("SOA") form[2] developed by the Office.[3] Section 111 does not establish a specific deadline upon which a cable operator must file its SOA with the Office. Instead, Congress had left it to the Office to implement a filing schedule to fulfill the mandates found in the statute. *See* 37 CFR 201.17(c)(1). Cable operators that file their statement of accounts late must add interest to their royalty payment. *See* 37 CFR 201.17(i)(4).

The SOAs are available in a print format, a PDF format, and a software "fill–in" format created by Gralin Associates, Inc.[4] The first two forms are freely available from the Office either by mail or by accessing them via the web at copyright.gov. Cable operators have to pay Gralin for the right to use its specialized software. It is estimated that about 40%–45% of all cable statement of account forms filed with the Office have been prepared using the Gralin form since the software was first made available in1985.

The Office recently revised the cable statement of account forms in light of the recent STELA amendments to Section 111. The new SA3 form now reflects the royalty rate adjustments found in STELA and includes, *inter alia*, modifications to accommodate the reporting of subscriber groups and multiple channel line–ups and the retransmission of multicast streams. The paper and PDF versions of the form have been available to cable operators since the second week in July. However, the Gralin SOA "fill–in" form, which is usually released at or about the same time as the paper version in years past, was not made publicly available until August 6, 2010. This form was delayed because it had to undergo performance tests over a period spanning several days. As such, cable operators who have relied on the Gralin form have been unable to access it or use it until very recently.

NCTA request. On August 12, 2010, the National Cable and Telecommunications Association ("NCTA") filed a letter with the Office seeking an extension, for 30 days, of the filing deadline for cable copyright Statements of Account covering the first accounting period of 2010.[5]

NCTA explains that Section 111(d)(2) of the Act requires cable operators to file semi–annual Statements of Account. It then states that Section 201.17(c)(1) of the Office's regulations provide that those filings "shall be deposited in the Copyright Office, together with the total royalty fee for such accounting periods as prescribed by Section 111(d)(1) (B), (C), or (D) of title 17, by not later than the immediately following August 29, if the SOA covers the January 1 through June 30 accounting period...." It also notes that Section 201.17(i)(4) of the Office's regulations state that royalty fee payments "submitted as a result of late or amended filings" must include interest. NCTA requests that the Office issue a waiver so that SOAs currently due August 30, 2010, instead would be due September 29, 2010. NCTA adds that pursuant to its waiver request, SOA filings made by that date would be considered timely and no interest would be assessed, but that SOA filings made *after* September 29, 2010, would be assessed interest from September 30, 2010, until the filing date.

NCTA comments that this one–time waiver is warranted in light of the changes to the Statement of Account forms and associated calculations resulting from Congress's adoption of STELA leaving little time for making the necessary changes to the SOA forms that must be used for the first accounting period of 2010. It adds that many cable operators that file SOAs for multiple cable systems use commercial software to facilitate those filings. It remarks that this software was not approved by the Office for use until August 6, 2010. According to NCTA, even after the software's release, cable operators using the software have discovered problems that have delayed their ability to input necessary data.[6]

NCTA asserts that granting the waiver will be in the public interest. It states that additional time will help operators accurately complete their SOA filings, thus reducing the need to file supplemental or amended SOAs. It adds that providing sufficient time so operators can make that single filing will also alleviate burdens on the Office. NCTA asserts that it is authorized to represent that Program Suppliers, Joint Sports Claimants, Commercial Television Claimants, Public Television Claimants, Music Claimants, Devotional Claimants, National Public Radio and Canadian Claimants (collectively, the "Phase I Claimants") do not oppose the granting by the Copyright Office of this one–time waiver.[7]

Discussion. We grant NCTA's request to waive the filing requirement under Section 201.17(c)(1) of the Office's rules and extend the filing deadline to Septemeber 29, 2010. We recognize that the passage of STELA in the late Spring of this year, and the subsequent work by the Office to revise the cable statements of account, have impaired the timely availability of the forms cable operators use to pay their royalty fees, especially the revised Gralin form. While we recognize that the paper and PDF versions of the SOA have been available since July, many large and small cable

[1] One of STELA's principal purposes was to reauthorize the satellite carrier distant broadcast signal license for another five years. Congress also amended the licenses to take into account the recent digital broadcast television transition and the ability of digital television stations to split their signal into several sub–channels (*i.e.*, "multicasting").

[2] There are two types of Statement of Account forms. The Form SA1–2 is for smaller cable operators (cable television systems whose semiannual gross receipts are less than $527,600). The Form SA3 is for larger cable operators (cable television systems whose semiannual gross receipts are $527,600 or more).

[3] The Office receives about 4,800 statement of account forms from cable operators each accounting period.

[4] Gralin is a specialty software company, unaffiliated with the government, that custom designs "filler" forms for cable operators and other businesses. Gralin touts the following benefits of using its SOA software: (1) generates a single database containing information for all cable system's Statement of Account information; (2) allows editing of data for subsequent filings; (3) performs the necessary royalty fee calculations for short and long forms; (4) available for use on an unlimited number of computers in a single location; (5) database may be located on a server accessible by all system users at a single location; and (6) prints the cable system's Statement of Account on images of the Copyright Office prescribed forms. *See* http://www.gralin.net (Last accessed on August 13, 2010).

[5] Letter from Diane Burstein, Deputy General Counsel, NCTA, to Marybeth Peters, Register of Copyrights, dated August 12, 2010.

[6] *Id.* It appears that NCTA is referring to Gralin without stating so directly.

[7] *Id.*

operators have continued to rely on the Gralin form to fulfill their SOA reporting and filing requirement under Section 111. Given that the Gralin form had been made available well in advance of the first day of the 60–day filing period in years past, operators had reasonably expected that it would be ready to use at or about the same time this year. However, through no fault of their own, the cable operators relying on Gralin did not have access to the revised Gralin form until August 6 this year, reducing to about three weeks the time they would have had to process and file their forms in the absence of a waiver. We recognize that complying with the existing deadline would be an arduous, and perhaps insurmountable task, for many cable operators particularly those who would have to file hundreds of forms during these last three weeks.

Further, as NCTA indicates, there are still minor problems with the Gralin software that have been discovered after its official release on August 6th. Cable operators should not be held accountable for matters beyond their control. The grant of the requested waiver will permit Gralin an additional amount of time to fix the problems with its software so that the SOA filings will be both accurate and complete.[8]

We also agree with NCTA when it states that additional time will help operators accurately complete their SOA filings, thus reducing the need to file supplemental or amended SOAs. It is evident that providing sufficient time so operators can make that single filing will alleviate burdens on the cable industry as well as the Copyright Office and produce more accurate filings. In this context, a waiver will serve the interest of the public because it will reduce unnecessary paperwork and further the efficient administration and processing of the incoming SOAs.

NCTA has also indicated that copyright owner groups would not oppose a thirty day extension of the filing deadline, and the Office has received confirmation from representatives of the copyright owner groups that this is the case. On this point, we note that the Office is waiving a procedural deadline and not a substantive royalty requirement. Cable operators will still be paying the royalties that are due under the Section 111 framework, albeit under a modified timeline. Thus, in light of the problems associated with providing forms and the lack of any opposition from those who have a direct stake in the filing of the statements of account and the timely receipt of royalty payments, the Office perceives no reason to deny the request.

Finally, we note that waivers are rarely granted by the Office. However, the action taken today is necessary because of unique, extenuating circumstances.[9]

We hereby waive Section 201.17(c)(1) and extend the date for filing cable statements of account to September 29, 2010. Accordingly, interest will be assessed pursuant to Section 201.17(i)(4) for late payments made *after* September 29, 2010.

Dated: August 18,2010

Marybeth Peters,

Register of Copyrights,

U.S. Copyright Office.

[FR Doc. 2010–20956 Filed 8–24–10; 8:45 am]

BILLING CODE 1410–30–S

[8]Gralin has reported that the glitches in its software have led, in limited instances, to difficulties in reporting certain data points and printing of the SA3 form. The Office is currently working with Gralin to resolve these glitches.

[9]*See Filing of Claims for DART Royalty Funds*, 68 FR 74481 (Dec. 24, 2003), citing *Northeast Cellular Telephone Company v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (holding that a waiver of an agency's rules is "appropriate only if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.").

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2010–0429; FRL–8841–2]

Acetic Acid Ethenyl Ester, Polymer With Oxirane; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of acetic acid ethenyl ester, polymer with oxirane; when used as an inert ingredient in a pesticide chemical formulation under 40 CFR 180.960. BASF Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of acetic acid ethenyl ester, polymer with oxirane on food or feed commodities.

DATES: This regulation is effective August 25, 2010. Objections and requests for hearings must be received on or before October 25, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0429. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Deirdre Sunderland, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 603–0851; e-mail address: *sunderland.deirdre@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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

B. How Can I Get Electronic Access to Other Related Information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2010–0429 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 25, 2010. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2010–0429, by one of the following methods.

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of June 23, 2010 (75 FR 35801) (FRL–8831–3), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP 9E7660) filed by, BASF Corporation, 100 Campus Drive, Florham Park, NJ 07932. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of acetic acid ethenyl ester, polymer with oxirane; (CAS No. 25820–49–9). That notice included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency did not receive any comments.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is "safe." Section 408(c)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and use in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption from the requirement of a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . ." and specifies factors EPA is to consider in establishing an exemption.

III. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). acetic acid ethenyl ester, polymer with oxirane conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. The polymer does contain as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

Additionally, the polymer also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

7. The polymer's number average MW of 17,000 is greater than or equal to 10,000 daltons. The polymer contains less than 2% oligomeric material below MW 500 and less than 5% oligomeric material below MW 1,000.

Thus, acetic acid ethenyl ester, polymer with oxirane meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit,

no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to acetic acid ethenyl ester, polymer with oxirane.

IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that acetic acid ethenyl ester, polymer with oxirane could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of acetic acid ethenyl ester, polymer with oxirane is 17,000 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since acetic acid ethenyl ester, polymer with oxirane conform to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA has not found acetic acid ethenyl ester, polymer with oxirane to share a common mechanism of toxicity with any other substances, and acetic acid ethenyl ester, polymer with oxirane does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that acetic acid ethenyl ester, polymer with oxirane does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

VI. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of acetic acid ethenyl ester, polymer with oxirane, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of acetic acid ethenyl ester, polymer with oxirane.

VIII. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by section 408(b)(4) of FFDCA. The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, section 408(b)(4) of FFDCA requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for acetic acid ethenyl ester, polymer with oxirane.

IX. Conclusion

Accordingly, EPA finds that exempting residues of acetic acid ethenyl ester, polymer with oxirane from the requirement of a tolerance will be safe.

X. Statutory and Executive Order Reviews

This final rule establishes an exemption from the requirement of a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these rules from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes, or otherwise have any unique impacts on local governments. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

Although this action does not require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. As such, to the extent that information is publicly available or was submitted in comments to EPA, the Agency considered whether groups or segments of the population, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

XI. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 13, 2010.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In §180.960, in the table, add alphabetically the following polymer to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

Polymer	CAS No.
* * *	* *
Acetic acid ethenyl ester, polymer with oxirane, minimum number average molecular weight (in amu), 17,000.	25820–49–9
* * *	* *

[FR Doc. 2010–21138 Filed 8–24–10; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2008–0084; [92220–1113–0000–C6]

RIN 1018–AW16

Endangered and Threatened Wildlife and Plants; Removal of the Utah (Desert) Valvata Snail From the Federal List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: Under the authority of the Endangered Species Act of 1973, as amended (Act), we, the U.S. Fish and Wildlife Service (Service), are removing the Utah (desert) valvata snail (*Valvata utahensis*) from the Federal List of Endangered and Threatened Wildlife (List). Based on a thorough review of the best available scientific and commercial data, we determined that the Utah valvata snail is more widespread and occurs in a greater variety of habitats in the Snake River than known at the time of listing in 1992. We now know the Utah valvata snail is not limited to areas of cold-water springs or spring outflows; rather, it persists in a variety of aquatic habitats, including cold-water springs, spring creeks and tributaries, the mainstem Snake River and associated tributary stream habitats, and reservoirs influenced by dam operations. Given our current understanding of the species' habitat requirements and threats, the species does not meet the definition of an endangered or threatened species under the Act. Therefore, we are removing the Utah valvata snail from the List, thereby removing all protections provided by the Act.

DATES: This effective date of this rule is September 24, 2010.

ADDRESSES: This final rule is available on the Internet at *http://www.regulations.gov* and at *http://www.fws.gov/idaho.* Comments and materials received, including supporting documentation used in preparing this rule, will be available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Idaho Fish and Wildlife Office, 1387 S. Vinnell Way, Room 368, Boise, ID 83709; by telephone.

FOR FURTHER INFORMATION CONTACT: Brian Kelly, State Supervisor, at the above address; by telephone 208–378–5243; or by fax at 208–378–5262 e-mail at: *fw1srbocomment@fws.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

The Utah valvata snail (*Valvata utahensis*) was first recognized as a species in 1902, based on specimens collected from Utah Lake and Bear Lake, Utah (Walker 1902, p. 125). Its common name has since been changed by the American Fisheries Society to the "desert valvata" in the benchmark text for aquatic invertebrate nomenclature, *Common and Scientific Names of Aquatic Invertebrates from the United States and Canada* (Turgeon *et al.* 1998, p. 109), presumably due to the fact that it is no longer known to occur in Utah. However, because the species is currently listed in the Code of Federal Regulations as the Utah valvata snail, *Valvata utahensis* will be referred to as the Utah valvata snail throughout this final rule.

Range

The Utah valvata snail, or at least its closely related ancestors, has been described as ranging widely across the western United States and Canada as far back as the Jurassic Period, 199.6 ± 0.6 to 145.5 ± 4 million years ago (Taylor 1985a, p. 268). Fossils of the Utah valvata snail are known from Utah to California (Taylor 1985a, pp. 286–287). The Utah valvata snail was likely present in the ancestral Snake River as it flowed south from Idaho, through Nevada, and into northeastern California (Taylor 1985a, p. 303). The Snake River's course changed to join the Columbia River Basin approximately 2 million years ago (Hershler and Liu 2004, pp. 927–928).

At the time of listing in 1992 (57 FR 59244, December 14, 1992), we reported the range of the Utah valvata snail as being limited to a few springs and mainstem Snake River sites in the Hagerman Valley, Idaho (River Mile (RM) 585), a few sites above and below Minidoka Dam (RM 675), and immediately downstream of American Falls Dam (RM 709).

New data collected since the time of listing indicate that the Utah valvata snail is discontinuously distributed in at least 255 miles (410 kilometers (km)) of the Snake River and some associated tributary streams, an increase of nearly 122 river miles (196 km) from the known range at the time of listing. Their current range in the Snake River extends from RM 585 near the Thousand Springs Preserve (Bean *in litt.* 2005), upstream to the confluence of the Henry's Fork with the Snake River (RM 837; Fields 2005, p. 11). Colonies of the Utah valvata snail have been found in the Snake River near the towns of Firth (RM 777.5), Shelley (RM 784.6), Payne (RM 802.6), and Roberts (RM 815), and in the Henry's Fork approximately 9.3 miles (15 km) upstream from its confluence with the Snake River (at Snake RM 832.3) (Gustafson *in litt.* 2003). Based on limited mollusk surveys, the species has not been found upstream from the described location on the Henry's Fork or in the South Fork of the Snake River. Tributary streams to the Snake River where Utah valvata snails have been collected include Box Canyon Creek (RM 588) (Taylor 1985b, pp. 9–10), and one location in the Big Wood River (Wood River Mile (WRM) 35) (USBR 2003, p. 22).

Habitat Use

At the time of listing in 1992, the best available data indicated that Utah valvata snails "characteristically require cold, fast water, or lotic habitats * * * in deep pools adjacent to rapids or in perennial flowing waters associated with large spring complexes" (57 FR 59244, December 14, 1992). In numerous field studies conducted since then, the species has been collected at a wide range of water depths, ranging from less than 3.2 feet (1 meter) (Stephenson and Bean 2003, pp. 98–99) to depths greater than 45 feet (14 meters) (USBR 2003, p. 20), and at temperatures between 37.4 and 75.2 degrees Fahrenheit (F) (4 to 24 degrees Celsius (C)) (Lysne *in litt.* 2007; Gregg *in litt.* 2006).

Work conducted by the Idaho Department of Fish and Game (IDFG) in the upper Snake River demonstrated that Utah valvata snail presence was positively correlated with water depth (up to 18.37 feet (5.6 meters)) and temperature (up to 63 degrees F (17.2 degrees C)) (Fields 2005, pp. 8–9), and Utah valvata snail density was positively correlated with macrophyte (a water plant large enough to be observed with the unaided eye) coverage, water depth, and temperature (Fields 2006, p. 6). Similarly, Hinson (2006, pp. 28–29) analyzed available data from several studies conducted by the U.S. Bureau of Reclamation (USBR) (2001–2004), Idaho Power Company (IPC) (1995–2002), IDFG, Idaho Transportation Department (2003–2004) and others, and demonstrated a positive relationship between Utah valvata snail presence and macrophytes, water depth, and fine substrates. One study reported Utah valvata snails in organically enriched fine sediments with a heavy macrophyte community, downstream of an aquaculture facility (RM 588) (Hinson 2006, pp. 31–32).

Survey data and information reported since the time of listing demonstrate that the Utah valvata snail is able to live in reservoirs, which were previously thought to be unsuitable for the species (Frest and Johannes 1992, pp. 13–14; USBR 2002, pp. 8–9; Fields 2005, p. 16; Hinson 2006, pp. 23–33). We now know the Utah valvata snail persists in a variety of aquatic habitats, including cold-water springs, spring creeks and tributaries, the mainstem Snake River and associated tributary stream habitats, and reservoirs.

Alterations of the Snake River, including the construction of dams and reservoir habitats, have changed fluvial processes resulting in the reduced likelihood of naturally high river flows or rapid changes in flows, and the retention of fine sediments (U.S. Environmental Protection Agency (USEPA) 2002, pp. 4.30–4.31), which may also increase potential habitat for the species (*e.g.,* Lake Walcott and American Falls Reservoirs; however, *see* Summary of Factors Affecting the Species below for a discussion of the effects of rapidly drawing down reservoirs). Utah valvata snail surveys conducted downstream from American Falls Dam (RM 714.1) to Minidoka Dam (RM 674.5), from 1997 and 2001–2007, consistently found Utah valvata snails on fine sediments within this 39-mile (62.9 km) river/reservoir reach of the Snake River (USBR 1997, p. 4; USBR 2003, p. 8; USBR 2004, p. 5; USBR 2005, p. 6; USBR 2007, pp. 9–11; USFWS 2005, p. 119). Surveys conducted downstream of Minidoka Dam (RM 674.5) to Lower Salmon Falls Dam (RM 573.0) have also documented Utah valvata snails in that reach, including one record from the tailrace area of Minidoka Dam (the downstream part of a dam where the impounded water reenters the river) in 2001 (USFWS 2005, p. 120).

In summary, based on available data, the Utah valvata snail is not as specialized in its habitat needs as we thought at the time of listing. In the Snake River, the species inhabits a diversity of aquatic habitats throughout its 255-mile (410 km) range, including cold-water springs, spring creeks and tributaries, mainstem and free-flowing waters, reservoirs, and impounded reaches. The species occurs on a variety of substrate types including both fine sediments and more coarse substrates in areas both with and without macrophytes. It has been collected at water depths ranging from less than 3.2 feet (1 meter) to greater than 45 feet (14 meters), and at water temperatures ranging from 37.4 to 75.2 degrees F (3 to 24 degrees C).

Population Density

Like many short-lived and highly fecund invertebrates, the density of Utah valvata snails at occupied sites can vary greatly. For example, at one cold-water spring site at the Thousand Springs Preserve, Utah valvata snail density in 2003 ranged between 0 and 1,724 snails per square meter (/m^2), with an average of 197 snails/m^2 (Stephenson *et al.* 2004, p. 23). In the mainstem Snake River between American Falls Reservoir and Minidoka Dam in 2002, Utah valvata snail densities averaged 91 snails/m^2 (ranging from 0 to 1,188 snails/m^2), and in American Falls Reservoir densities averaged 50 snails/m^2 (range unavailable) (USBR 2003, p. 20). In 2008 and 2009, monitoring efforts were carried out at sites first monitored by the USBR in the late 1990s and early 2000s below American Falls Reservoir, which is a free-flowing riverine environment (Gates *in litt.* 2009). Monitoring results indicate these specific colonies have decreased in density and proportional occurrence compared to results from the late 1990s and early 2000s, with the greatest densities found in 2009 ranging from 4 to 24 snails/m^2 and presence ranging from 5 to 9 percent (Gates *in litt.* 2009). However, 2009 monitoring sites do not represent a comprehensive survey of the area below American Falls Reservoir as only two of the four largest colonies sampled in 2008 were sampled in 2009 (Gates *in litt.* 2009). Above American Falls Reservoir in the mainstem Snake River, Utah valvata snail densities sampled in 2004 at six sites averaged 117 snails/m^2 (ranging from 0 to 1,716 snails/m^2) (Fields 2006, pp. 12–13).

Within occupied reservoirs, the proportional occurrence of snails is relatively high. For all field studies and surveys, lower Lake Walcott Reservoir had the highest proportional occurrence (USBR 2002, p. 5; USBR 2003, p. 6). For sample years 2001 to 2006, the relative proportion of samples containing Utah valvata snails ranged from 40 (in 2004) to 62 (in 2002) percent of samples collected. Similarly, American Falls reservoir samples contained a high proportion of Utah valvata snails, with the species detected in 21 (in 2001) to 33 (in 2003) percent of samples. Such high proportional occurrence in reservoirs over multiple years is additional evidence that Utah valvata snails are using reservoir habitats and are not restricted to cold-water springs or their outflows.

Previous Federal Actions

We listed the Utah valvata snail as endangered on December 14, 1992 (57 FR 59244). Based on the best available data at that time we determined that the Utah valvata snail was threatened by proposed construction of new hydropower dams, the operation of existing hydropower dams, degraded water quality, water diversions, the introduced New Zealand mudsnail (*Potamopyrgus antipodarum*), and the lack of existing regulatory protections (57 FR 59244). In 1995, we completed the Snake River Aquatic Species Recovery Plan (Plan), which included the Utah valvata snail. We have not designated critical habitat for this species.

On April 11, 2006, we initiated a 5-year review of the species' status (71 FR 18345) in accordance with section 4(c)(2) of the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*). On December 26, 2006, the Service received a petition from the Governor of Idaho and attorneys from several irrigation districts and canal districts requesting that we remove the Utah valvata snail from the List. On June 6, 2007, the Service published a **Federal Register** notice announcing that the petition presented substantial scientific information indicating that removing the Utah valvata snail from the List may be warranted, and initiating a status review (72 FR 31264). As part of our best available scientific and commercial data analysis, we conducted a 30-day peer review on a draft status-review document, which was completed in September 2007 (USFWS *in litt.* 2007).

On July 16, 2009, we published a warranted 12-month finding on the delisting petition and a proposed rule to remove the Utah valvata snail from the Federal List of Endangered and Threatened Wildlife (74 FR 34539). We solicited data and comments from the public on the proposed rule. The comment period opened on July 16, 2009, and closed on September 14, 2009. A summary of the comments we received and our responses are provided below.

Summary of Comments and Responses

In accordance with our policy on peer review, published on July 1, 1994 (59 FR 34270), we solicited scientific peer review from four appropriate and independent experts following publication of the proposed rule. Reviewers were asked to review the proposed rule to help ensure our use of the best available scientific and commercial data, and to maximize the quality, objectivity, thoroughness, and utility of the information upon which the final rule is based. One of the peer reviewers submitted comments which we summarize and respond to below.

Peer Review Comments and Responses

(1) *Comment:* New monitoring data collected in the Vista/Neeley section of the Snake River below American Falls Reservoir (RM 713; a free flowing riverine environment) from 2008 and 2009 indicate lower Utah valvata snail densities than were observed during surveys in the late 1990s and early 2000s. These data, along with other preliminary sampling results provided, suggest that Utah valvata snail populations can experience large fluctuations in population size within and among years.

Our Response: We thank the peer reviewer for the additional monitoring data, which we have incorporated into this final rule.

While the Utah valvata snail population appears to have declined between 2002 and 2009 in the Vista/Neeley section (RM 713) of the Snake River, it should be noted that different collection methods and sample sizes used for data collection limit our ability to precisely quantify site-specific Utah valvata snail population declines. Also, the data reported are from a small portion (within 1.92 miles (3.2 km)) (USBR 2003, p. 4) of the 255-river-mile (410 km) range of the Utah valvata snail in the Snake River and tributary streams. Lastly, the 2009 monitoring sites do not represent a comprehensive survey of the reach below American Falls dam because they were based on only two of the four largest colonies that were sampled in 2008.

Compared to vertebrate species, most invertebrates have short generation times, small body size, and rapid rates of population increase and decline. For these reasons, invertebrate populations frequently undergo large fluctuations in size and may vary greatly between years due to environmental parameters and other factors affecting habitat (Ricklefs 1979, pp. 509–510; Murphy *et al.* 1990, p. 41).

In general, consistent, long-term monitoring of population abundance and persistence throughout the range of the Utah valvata snail is lacking. This limits our ability to calculate reliable estimates of population trends. In the case of Utah valvata snails, although there appears to be large interannual variation in population numbers at the few sites for which we have monitoring data, such as in the Vista/Neeley section of the Snake River, this is not necessarily an indication that the species' status has degraded or that the species is undergoing a long-term population decline.

(2) *Comment:* The peer reviewer stated that the greatest threat to the Utah valvata snail is from annual dewatering of the Snake River below the mainstem dams. Annual water drawdowns expose hundreds of meters of littoral zone habitat in the Vista/Neeley and Coldwater sections of the Snake River within a period of days.

Our Response: In making our delisting determination, we evaluated several threat factors, including the operation of existing hydropower dams. Within the Vista/Neeley section below American Falls reservoir, Utah valvata snails are able to re-colonize most submerged zones during summer high flows (USFWS 2005, p. 127). Although up to 54 percent of the Utah valvata population in the Neeley reach may be subject to desiccation from annual water withholdings upstream for storage, existing operations by the Bureau of Reclamation that provide minimum flows (350 cubic feet per second (cfs)) below American Falls Dam (USFWS 2005, p. 25) are likely to provide for a viable population there (USFWS 2005, pp. 127–128). While annual drawdowns are likely to negatively affect Utah valvata snail populations in certain years, the best available data indicate that these drawdowns are not likely to lead to significant, long-term population declines (USFWS 2005, pp. 127–128).

A complete review and evaluation of the threats affecting the Utah valvata snail, including a discussion of our rationale in assessing those threats, is presented in the Summary of Factors Affecting the Species section of this rule.

(3) *Comment:* The peer reviewer stated that 10 years of data indicate the continued coexistence of the Utah

valvata snail and New Zealand mudsnails in the Vista/Neeley section of the Snake River (RM 713), which implies that the New Zealand mudsnail is not considered a threat to the persistence of the Utah valvata snail. However, the peer reviewer recommends future population monitoring at these sites.

Our Response: The Service would like to thank the peer reviewer for the data and comments. A complete review and evaluation of the threat of the New Zealand mudsnail, including a discussion of our rationale in assessing those threats, is presented in the Summary of Factors Affecting the Species section of this rule.

Public Comments and Responses

During the 60-day comment period on the proposed rule, we received four public comments, in addition to the peer review comment. Public comments that provided new substantive information were incorporated into this final rule, and are addressed below.

(4) *Comment:* The State of Idaho's Office of Species Conservation, along with three canal companies and four irrigation districts, supports the proposal to delist the Utah valvata snail based on new information regarding its distribution and habitat requirements. There are several management plans and measures, not identified in the proposed rule, which will likely benefit the Utah valvata snail by increasing Snake River flows including: The Nez Perce Water Rights Agreement, the Bell Rapids Mutual Irrigation Company Water Rights Purchase, and recent aquifer management planning projects within the range of the Utah valvata snail. In addition, information was provided that the 2004 Idaho Power Company Integrated Resource Plan does not identify new hydropower projects within the range of the Utah valvata snail.

Our Response: We thank the State of Idaho and others for the additional information. We have incorporated the relevant information into the Summary of Factors Affecting the Species section below.

(5) *Comment:* Several commenters provided new data and information regarding the ecology and threat factors affecting the Utah valvata snail. One commenter said that competition between the Utah valvata snail and the nonnative, invasive New Zealand mudsnail may be a more significant threat than we described, and therefore we should further consider the effects of the New Zealand mudsnail and other invasive species on the Utah valvata snail before removing it from the Federal List of Endangered and Threatened Wildlife. In addition, this commenter stated that the effects of climate change represent a new threat to the Utah valvata snail and its habitat and should be addressed and analyzed in the final rule.

Our Response: We thank the commenters who provided new information and data for our consideration in making this final determination. We have evaluated the available scientific and commercial data regarding the Utah valvata contained in reports, biological assessments and opinions, published journal articles, and other documents.

Our knowledge and understanding of the habitat needs of the Utah valvata snail has changed substantially since the species was listed in 1992. Survey data collected since 1992 indicate that the geographic range of the species in the Snake River is approximately 122 river miles (196 km) larger than known at the time of listing, that it occurs in a variety of substrate types (*e.g.,* fines to cobble size) and flows, and that it tolerates a range of water-quality parameters.

Surveys have shown the New Zealand mudsnail frequently co-occurs with the Utah valvata snail and may compete for habitat or food. Although the New Zealand mudsnail has been reported at extremely high densities in the middle Snake River (Richards *et al.* 2001, p. 375), and at moderate-to-high densities at five sites in tributaries to the Snake River and the Snake River above American Falls Reservoir, there is no evidence that after 20 years of co-occurrence the New Zealand mudsnail has caused local extirpations of the Utah valvata snail.

Regarding climate change, there is compelling evidence that we are living in a time of rapid, worldwide climate change. For example, 11 of the 12 years from 1995–2006 rank among the 12 warmest years since 1850 (Independent Scientific Advisory Board (ISAB) 2007, p. iii). In the Pacific Northwest, regionally averaged temperatures have risen 1.5 degrees F (0.8 degrees C) over the last century, and are projected to increase by another 3 to 10 degrees F (1.5 to 5.5 degrees C) over the next 100 years (Mote *et al.* 2003, p. 54; Karl *et al.* 2009, p. 135). While the specific effects of global climate change on the Utah valvata snail are unclear, aquatic species and their habitats may be particularly vulnerable to changes in temperatures and precipitation patterns. Nevertheless, our current understanding of the Utah valvata snail is that it occurs in a variety of substrate types (*e.g.,* fines to cobble size), flows, and depths, and tolerates a range of water-quality parameters, including elevated water temperatures.

Our updated evaluation of the threat factors, including climate change, to the Utah valvata snail is presented in the Summary of Factors Affecting the Species section of this final rule.

(6) *Comment:* One commenter stated that populations believed to be Utah valvata snails may in fact be *Valvata humeralis,* and therefore recommended that we positively identify all Utah valvata snail populations, through genetic analysis, before removing them from the Federal List of Endangered and Threatened Wildlife.

Our Response: Studies and surveys have documented the *Valvata humeralis* snail often co-occurs with the Utah valvata snail. Although these two species possess many similar morphological characteristics, they can be distinguished through variations in shell morphology. The Utah valvata possesses a taller shell spire and more prominent carinae than the *Valvata humeralis* (Burch 1989, pp. 82–83; Walker 1902, pp. 121–125). Miller *et al.* (2006b, pp. 3–4) confirmed through genetic analysis that the Utah valvata snail and *Valvata humeralis* are distinct species and demonstrated that the species can be effectively distinguished using morphological characteristics (i.e., the morphological data aligned with the genetic data).

The Service, along with other agencies and researchers, use the difference in shell morphology as the primary method to differentiate between these two species. While we acknowledge, given morphological similarities, there is potential to confuse individuals of these two species where they co-occur (Miller *et al.* 2006b, p. 1), genetic data confirm Utah valvata snail occurrence at multiple sites within the geographic range described at the beginning of this document (Miller *et al.* 2006b, entire). Therefore, the Service believes that additional genetic testing of all Utah valvata snail populations for identification purposes is unnecessary.

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1533) and implementing regulations (50 CFR part 424) set forth procedures for adding species to, removing species from, or reclassifying species on the Federal List of Endangered and Threatened Wildlife (List).

Under section 4 of the Act, a species may be determined to be endangered or threatened on the basis of any of the following five factors: (A) Present or threatened destruction, modification, or curtailment of habitat or range; (B)

overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We must consider these same five factors in delisting a species. We may delist a species according to 50 CFR 424.11(d) if the best available scientific and commercial data indicate that the species is neither endangered nor threatened for the following reasons: (1) The species is extinct; (2) the species has recovered and is no longer endangered or threatened; or (3) the original scientific data used at the time the species was classified were in error.

A species is "endangered" for purposes of the Act if it is in danger of extinction throughout all or a significant portion of its range and is "threatened" if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range.

Factor A. The Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range

Construction of New Hydropower Dams

In our 1992 final rule listing the Utah valvata snail as an endangered species, we stated: "Six proposed hydroelectric projects, including two high dam facilities, would alter free flowing river reaches within the existing range of [the Utah valvata snail]. Dam construction threatens the [Utah valvata snail] through direct habitat modification and moderates the Snake River's ability to assimilate point and non-point pollution. Further hydroelectric development along the Snake River would inundate existing mollusc habitats through impoundment, reduce critical shallow, littoral shoreline habitats in tailwater areas due to operating water fluctuations, elevate water temperatures, reduce dissolved oxygen levels in impounded sediments, and further fragment remaining mainstem populations or colonies of these snails" (57 FR 59251).

Since the time of listing, proposed hydroelectric projects discussed in the 1992 final rule are no longer moving forward. The A.J. Wiley project and Dike Hydro Partners preliminary permits have lapsed; the Kanaka Rapids, Empire Rapids, and Boulder Rapids permits were denied by the Federal Energy Regulatory Commission (FERC) in 1995; there was a notice of surrender of the preliminary permit for the River Side Project in 2002; and two other proposed projects, the Eagle Rock and Star Falls Hydroelectric Projects, were denied preliminary permits by the FERC. In 2003, a notice was provided of surrender of preliminary permit for the Auger Falls Project. Information provided by the State of Idaho indicates that all proposals and preliminary permits for the construction of new dams along the mid-Snake River have either lapsed or been denied by the FERC (Caswell *in litt.* 2006). In addition, the 2006 IPC Integrated Resource Plan does not identify any new, large hydropower projects within the Snake River (IPC 2006, p. 57). Lastly, recent studies have shown that the Utah valvata snail is not as limited in its geographic range or habitat needs as we had thought at the time of listing (see Background section above).

Operation of Existing Hydropower Dams

In the 1992 final rule, we discussed peak-loading, the practice of artificially raising and lowering river levels to meet short-term electrical needs by local run-of-the-river hydroelectric projects, as a threat to the Utah valvata snail. We also stated, as was our understanding at the time, that the Utah valvata snail "cannot tolerate true impoundment or reservoir conditions" (57 FR 59248). Studies conducted since the time of listing have shown the Utah valvata snail is able to persist in reservoirs and in areas downstream of peak-loading dams, contrary to our understanding of the species at the time of listing (USFWS 2005, pp. 105, 127–128; 57 FR 59244, 59245). For example, Lake Walcott (RM 702.5 to 673.5; upstream of Minidoka Dam) appears to contain the largest population of Utah valvata snails in the Snake River system (USFWS 2005, pp. 111–112). This is likely due to relatively good water quality in the reservoir compared to downstream sections of the Snake River near Hagerman where water quality is influenced by agricultural, municipal, and aquaculture flows into the river. In lower Lake Walcott, there is a large area of suitable Utah valvata snail habitat that remains submerged despite annual drawdowns during the irrigation season (the reservoir fluctuates up to 5 feet (1.5 meters) annually, thereby limiting the number of snails affected by dewatering and desiccation). Further, surveys conducted in the mainstem Snake River in 1997, 1998, and 2001 from American Falls Dam (RM 714.1) to Lake Walcott (RM 702.5) indicate a fairly large and viable population of Utah valvata snails even though shoreline habitats in this stretch undergo annual dewatering (USFWS 2005, p. 119). In American Falls reservoir, dam operations and fluctuating flows have been estimated to kill between 5 and 40 percent of the Utah valvata snails through dewatering and desiccation of their habitat in most years. Nevertheless, Utah valvata snails continue to persist in both American Falls and Lake Walcott reservoirs with relatively high proportional occurrence (USFWS 2005, p. 119).

Degraded Water Quality

In the 1992 final listing rule, we stated: "The quality of water in [snail] habitats has a direct effect on the species [sic] survival. The [Utah valvata snail] require[s] cold, well-oxygenated unpolluted water for survival. Any factor that leads to deterioration in water quality would likely extirpate [the Utah valvata snail]" (57 FR 59252). As described above in the **Species Information** section, our understanding of the species' habitat requirements has changed substantially since 1992. Furthermore, new information has become available indicating (a) improvements to Snake River water quality where the species lives, and (b) that Utah valvata snails inhabit and persist in reaches of the Snake River rich in nutrients (*e.g.,* nitrogen and phosphorus).

Factors that are known to degrade water quality in the Snake River include reduced water flow, warming due to impoundments, and increases in the concentration of nutrients, sediment, and pollutants reaching the river from agricultural and aquaculture inputs (USFWS 2005, p. 106). In the 1990s and early 2000s, several water-quality assessments were completed for the Snake River by the USEPA, USBR, U.S. Geological Survey (USGS), and IPC. All of these assessments generally demonstrate that water quality in the Snake River of southern Idaho meets Idaho's water-quality criteria for the protection of aquatic life for some months of the year, but may be poor in reservoirs or during summer when temperatures are high and flows are low (Clark *et al.* 1998, pp. 20–21, 24–27; Clark *et al.* 2004, pp. 38–40; Clark and Ott 1996, p. 553; Clark 1997, pp. 1–2, 19; Meitl 2002, p. 33).

Several reaches of the Snake River are classified as water-quality-impaired due to the presence of one or more pollutants (*e.g.,* Total Phosphorus (TP), sediments, total coliforms) in excess of State or Federal guidelines. Nutrient-enriched waters primarily enter the Snake River via springs, tributaries, fish-farm effluents, municipal waste-treatment facilities, and irrigation returns (USEPA 2002, pp. 4–18 to 4–24). Irrigation water returned to rivers is generally warmer, contains pesticides or pesticide byproducts, has been enriched with nutrients from agriculture (*e.g.,*

nitrogen and phosphorous), and frequently contains elevated sediment loads. Pollutants in fish-farm effluent include nutrients derived from metabolic wastes of the fish and unconsumed fish food, disinfectants, bacteria, and residual quantities of drugs used to control disease outbreaks. Elevated levels of fine sediments, nitrogen, and trace elements (including cadmium, chromium, copper, lead, and zinc) have been measured immediately downstream of several aquaculture discharges (Hinson 2003, pp. 42–45). Additionally, concentrations of lead, cadmium, and arsenic have been detected in snails collected from the Snake River (Richards *in litt.* 2003).

The effects of pollutants detected in the Snake River (*e.g.,* metals, pesticides, excess nutrients) on the growth, reproduction, and survival of the Utah valvata snail have not been evaluated. The Utah valvata snail has been documented to occur in low-oxygen, organically-enriched sediments with heavy macrophyte communities downstream of an aquaculture facility (RM 588) (Hinson 2003, p. 17), indicating that the species may not be as sensitive to these pollutants as we once believed. Based on the best available data, we are not aware that water quality in the Snake River limits growth, reproduction, or survival of the Utah valvata snail in any portion of its range.

Although several reaches of the Snake River are classified as water quality impaired (see further discussion below in Factor D), there have been improvements in Total Suspended Solids (TSS) in certain reaches of the River, primarily as a result of changing irrigation practices between 1990 and 2005. There have also been substantial declines in TP from changing agricultural practices and changing aquaculture feeds in the middle Snake River downstream of Lake Walcott. Data collected by the Idaho Department of Environmental Quality (IDEQ) show decreases of TSS near 64 percent compared to 1990 levels, and decreases of TP near 33 percent compared to 1990 levels (Buhidar *in litt.* 2006). The specific water-quality parameters required for the survival and persistence of the Utah valvata snails are not known. However, the Utah valvata snail occurs over a relatively large documented range of over 255 river miles (410 km) (USFWS 2005, pp. 110–113) and has the ability to tolerate and persist in a variety of aquatic habitats with some degree of water-quality degradation (Lysne and Koetsier 2006, pp. 234–237). For example, studies conducted by the USBR in 2003 in Lake Walcott Reservoir indicated the highest Utah valvata snail densities occurred in the lower reservoir, where the sediments had the greatest percentage of organic content (an indicator that oxygen levels are likely low) (Hinson 2006, p. 19).

Summary of Factor A: Our understanding of the habitat needs of the Utah valvata snail has changed substantially since the species was listed in 1992. Compared to our knowledge at the time of listing, survey data collected since 1992 indicate that the geographic range of the species in the Snake River is approximately 122 river miles (196 km) longer and that the species occurs on a variety of substrate types (*e.g.,* fines to cobble size) and in varying water flows and depths. The Utah valvata snail also tolerates a wider range of water-quality parameters (*e.g.,* dissolved oxygen and temperature) than was originally believed. Threats pertaining to the construction of new hydropower dams as cited in the 1992 final rule no longer exist as the plans for dam construction have expired or been withdrawn. The operation of existing hydropower dams and reservoirs upstream of Minidoka Dam primarily affect the distribution of the Utah valvata snail along shoreline areas due to fluctuating flows and seasonal dewatering; however, the species persists throughout these reservoirs with relatively high proportional occurrence. The available information does not suggest that degraded water quality in the Snake River is affecting the species' population numbers or distribution. Evidence indicates that improvements have been made in Snake River water-quality parameters, including TSS and TP in some Snake River reaches, since listing. Therefore, based on the best available scientific and commercial data, threats of present or future destruction, modification, or curtailment of the Utah valvata snail's habitat or range do not rise to the level such that the species meets the definition of either endangered or threatened under the Act.

Factor B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

There is no known commercial or recreational use of the species and collections for scientific or educational purposes are limited in scope and extent. While collection could result in mortality of individuals within a small area, they are unlikely to have population-level effects because only a few individuals and institutions are interested in collecting the species and the life-history strategy of the species makes populations relatively resilient to limited mortality (*i.e.,* invests little in reproduction, relatively high reproductive output (many eggs laid at a time), early age of reproduction, and short lifespan). Therefore, based on the best available scientific and commercial data, threats from overutilization for commercial, recreational, scientific, or educational purposes to the Utah valvata snail do not rise to the level such that the species meets the definition of either endangered or threatened under the Act.

Factor C. Disease or Predation

Parasitic trematodes similar to those of the genus *Microphallus* have been identified in some freshwater snails (*e.g., Pyrgulopsis robusta*) that share similar habitats in the Snake River in Idaho (Dybdahl *et al.* 2005, p. 8). However, the occurrence of trematode parasites on the Utah valvata snail has not been studied.

Predators of the Utah valvata snail have not been documented; however, we assume that some predation by native and nonnative species occurs. Aquatic snails in general are prey for numerous invertebrates and vertebrates (Dillon 2000, pp. 274–304), and predation on other aquatic snails by crayfish and fish is well documented (Lodge *et al.* 1994, p. 1265; Martin *et al.* 1992, p. 476; Merrick *et al.* 1992, p. 225; Lodge *et al.* 1998, p. 53; McCarthy and Fisher 2000, p. 387).

While disease or predation likely results in some Utah valvata snail mortality, the life-history strategy of the species makes populations relatively resilient to limited mortality (i.e., invests little in reproduction, relatively high reproductive output (many eggs laid at a time), early age of reproduction, and short lifespan). Therefore, based on the best available scientific and commercial data, threats from disease or predation to the Utah valvata snail do not rise to the level such that the species meets the definition of either endangered or threatened under the Act.

Factor D. Inadequacy of Existing Regulatory Mechanisms

In the 1992 final listing rule, we found inadequate regulatory mechanisms to be a threat because: (1) Regulations were inadequate to curb further water withdrawal from groundwater spring outflows or tributary spring streams; (2) it was unlikely that pollution-control regulations would reverse the trend in nutrient loading any time soon; (3) there was a lack of State-mandated protections for invertebrate species in Idaho; and (4) regulations did not

require FERC or the U.S. Army Corps of Engineers to address Service concerns regarding licensing hydroelectric projects or permitting projects under the Clean Water Act (33 U.S.C. 1251 *et seq.*) for unlisted snails. Below, we address each of these four concerns.

Groundwater Withdrawal Regulations

Since 1992, new information has become available clarifying the habitat requirements of the Utah valvata snail. The species is not limited to cool, fast-water, or lotic habitats, or perennial flowing waters associated with large spring complexes, as previously believed. The species is able to live in a variety of aquatic habitats, and is locally abundant throughout a 255-mile (410 km) stretch of the Snake River in tributary streams, in the mainstem Snake River, and in reservoirs that are managed for annual drawdowns.

The Idaho Department of Water Resources (IDWR) manages water in the State of Idaho. Among the IDWR's responsibilities is the development of the State Water Plan (IDWR *in litt.* 1996). The State Water Plan was updated in 1996, and included a table of federally endangered and threatened species in Idaho, including five Snake River aquatic snails listed as endangered or threatened in 1992: The Utah valvata snail, Idaho springsnail (*Pyrgulopsis* (=*Fontelicella*) *idahoensis*) (delisted in 2007), Snake River Physa (*Physa natricina*), Bliss Rapids snail (*Taylorconcha serpenticola*), and Banbury Springs Lanx (*Lanx* n sp. (undescribed)) (see 57 FR 59244). The State Water Plan outlines objectives for the conservation, development, management, and optimum use of all unappropriated waters in the State. One of these objectives is to "maintain, and where possible enhance water quality and water-related habitats" (IDWR *in litt.* 1996). It is the intent of the State Water Plan that any water savings realized by conservation or improved efficiencies is appropriated to other beneficial uses (*e.g.,* fish and wildlife, hydropower, or agriculture). Another IDWR regulatory mechanism is the ability of the Idaho Water Resource Board to appropriate water for minimum stream flows when in the public interest (IDWR *in litt.* 2010).

Since 1992, the IDWR and other State agencies have also created additional regulatory mechanisms that limit future surface and groundwater development, including the continuation of various moratoria on new consumptive water rights and the designation of Water Management Districts (Caswell *in litt.* 2007). The State is working with numerous interested parties to stabilize aquifer levels and enhance cold-water-spring outflows that feed into the Snake River within the range of the Utah valvata snail. In 2008, the Idaho Legislature approved House Bill 428 establishing the Statewide Comprehensive Aquifer Planning and Management Program (SCAPMP) (I.C. section 42–1779) and House Bill 644 which created the Aquifer Planning and Management Fund (I.C. section 42–1780) (State of Idaho *in litt.* 2008a, 2008b). Under the SCAPMP, the Eastern Snake River Plane Aquifer (ESPA) was identified for management planning (IDWR 2009, entire). In 2009, the ESPA Comprehensive Aquifer Management Plan (CAMP) was made final. The goal of the ESPA CAMP is to "sustain the economic viability and social and environmental health of the Eastern Snake Plain by adaptively managing a balance between water use and supplies" (IDWR 2009, p. 4). The ESPA CAMP "establishes a long-term program for managing water supply and demand in the ESPA through a phased approach to implementation, together with an adaptive management process to allow for adjustments or changes in management techniques as implementation proceeds" (IDWR 2009, p. 4). The long-term objective of the ESPA CAMP is a net increase of 600,000 acre-feet of water annually by the year 2030 (IDWR 2009, p. 4). However, this is a discretionary document and does not have regulatory authority.

In 2005, Congress and the Idaho Legislature approved the Snake River Water Rights Agreement (SRWRA) in the Snake River Basin Adjudication (SRBA) (State of Idaho *in litt.* 2005a; USA *in litt.* 2004). The Snake River Component of the SRWRA allows the USBR to lease up to 427,000 acre-feet of water for flow augmentation, and acquire up to 60,000 acre-feet of water rights from the Snake River between Milner (RM 639) and Swan Falls (RM 458), increasing total flow augmentation up to 487,000 acre-feet within the range of the Utah valvata snail (IDWR *in litt.* 2004). In 2005, the USBR acquired water rights through a 30-year lease with the State of Idaho for 98,000 acre-feet of water from the Bell Rapids Mutual Irrigation Company (State of Idaho *in litt.* 2005b). This will potentially benefit the Utah valvata snail by increasing available wetted areas and connectivity of available habitats within the range of the species.

The State of Idaho established moratoria in 1993 (the year after the Utah valvata's listing) that restricted further surface-water and groundwater withdrawals for consumptive uses from the Snake River Plain aquifer between American Falls Reservoir (RM 714.1) and C.J. Strike Reservoir (RM 494). The 1993 moratoria, extended by Executive Order in 2004 (Caswell *in litt.* 2006, attachment 1), have not yet resulted in stabilization of the Snake River Plain aquifer levels. Depletion of spring flows and declining groundwater levels are a collective effect of drought conditions, changes in irrigation practices (the use of central-pivot sprinklers contribute little to groundwater recharge), and groundwater pumping (University of Idaho *in litt.* 2010).

Although we anticipate groundwater levels in the Snake River Plain aquifer will likely continue to decline in the near future, even as water-conservation measures are developed and implemented, this is unlikely to endanger or threaten the Utah valvata snail given the species' distribution over a 255-mile (410-km) range and its ability to survive and persist in a wide variety of aquatic habitats not dependent upon Snake River Plain groundwater outflows.

Pollution Control Regulations

Since 1992, reductions in sediment (TSS) and phosphorus (TP) loading have improved water quality in localized reaches of the Snake River (Buhidar *in litt.* 2005) (see Factor A above). Various State-managed water-quality programs are being implemented within the range of the Utah valvata snail. These programs tier off the Clean Water Act (CWA), which requires States to establish water-quality standards that provide for (1) the protection and propagation of fish, shellfish, and wildlife, and (2) recreation in and on the water. As required by the CWA, Idaho has established water-quality standards (*e.g.,* for water temperature and dissolved oxygen) for the protection of cold-water biota (*e.g.,* invertebrate species) in many reaches of the Snake River. The CWA also specifies that States must include an anti-degradation policy in their water quality regulations that protects water-body uses and high-quality waters. Idaho's anti-degradation policy, updated in the State's 1993 triennial review, is detailed in their Water Quality Standards (IDEQ *in litt.* 2009).

The IDEQ works closely with the USEPA to manage point and non-point sources of pollution to water bodies of the State through the National Pollutant Discharge Elimination System (NPDES) program under the CWA. IDEQ has not been granted authority by the USEPA to issue NPDES permits directly; all NPDES permits are issued by the USEPA Region 10 (USEPA *in litt.* 2010). These NPDES permits are written to

meet all applicable water-quality standards established for a water body to protect human health and aquatic life. Waters that do not meet water-quality standards due to point and non-point sources of pollution are listed on USEPA's 303(d) list of impaired water bodies. States must submit to USEPA a 303(d) list (water-quality-limited waters) and a 305(b) report (status of the State's waters) every 2 years. IDEQ, under authority of the State Nutrient Management Act, is coordinating efforts to identify and quantify contributing sources of pollutants (including nutrient and sediment loading) to the Snake River basin via the Total Maximum Daily Load (TMDL) approach. In water bodies that are currently not meeting water-quality standards, the TMDL approach applies pollution-control strategies through several of the following programs: State Agricultural Water Quality Program, Clean Water Act section 401 Certification, Bureau of Land Management (BLM) Resource Management Plans, the State Water Plan, and local ordinances. Since the time of listing in 1992, the following TMDLs have been approved by the USEPA (approval year(s) in parentheses) within the Utah valvata range: The Big Wood River (2002), Billinglsey Creek (2005), Blackfoot River (2002, 2007), Idaho Falls (2004), Lake Walcott (2000, 2007), Little Wood River (2005), Palisades (2002), Portneuf River (2001), Raft River (2004), Snake River—King Hill to C.J. Strike (2006), Middle Snake River—aquaculture wasteload allocation (2005), and the Teton River (a tributary of Henry's Fork of the Snake River) and Teton River Supplement (2003). Implementation plans that specify pollution-control strategies and monitoring needed to meet TMDL recommendations and goals are either in place or under development for 9 of these 12 areas (IDEQ_2010a; 2010b).

State Invertebrate Species Regulations

There are no specific State regulatory protections for the Utah valvata snail in Idaho. The primary threats to the species, as identified in our 1992 listing rule, were related to the loss or alteration of its aquatic habitats. The lack of specific regulations protecting individual Utah valvata snails does not, by itself, imply that the species is endangered or threatened.

While there are no State regulatory protections for the Utah valvata snail, it is considered a Species of Greatest Conservation Need (SGCN) as identified in the State of Idaho Comprehensive Wildlife Conservation Strategy (CWCS) (IDFG 2005 p. 4–75). The aim of the CWCS is to provide a common framework that will enable conservation partners to jointly implement a long-term approach for the benefit of SGCN through proactive conservation to promote cost-effective solutions instead of reactive measures enacted in the face of imminent losses (IDFG 2005, p. V).

Federal Consultation Regulations

The threat of insufficient regulatory mechanisms to address Utah valvata conservation needs in the 1992 listing rule was primarily related to the proposed construction of six hydroelectric dams within the suspected, limited geographic range of the species, coupled with our belief at the time of listing that the species required cold, fast-water, or lotic habitats, and was negatively impacted by dams that inundated free-flowing river environments. As previously described, hydroelectric dams are no longer being proposed for construction in the middle Snake River, and our understanding of Utah valvata snail geographic range, ecology, and habitat requirements has changed. Thus, the importance of a regulatory mechanism to address these threats is no longer a significant issue with regard to the conservation of the Utah valvata snail.

Summary of Factor D: Although there are no specific State regulations protecting the Utah valvata snail, it is considered a SGCN as identified in the Idaho CWCS. The primary threats identified in the final listing rule were related to the loss or alteration of the species' habitat. Furthermore, as our understanding of the species' habitat requirements has changed, so has our understanding of the species' conservation and regulatory needs. Regulatory mechanisms such as Idaho's water-quality standards and TMDLs will continue to apply to habitats occupied by Utah valvata snails. Therefore, based on the best available scientific and commercial data, threats from inadequate regulatory mechanisms to the Utah valvata snail do not rise to the level such that the species meets the definition of either endangered or threatened under the Act.

Factor E. Other Natural or Manmade Factors Affecting the Species' Continued Existence

Invasive Species

The final listing rule stated that nonnative New Zealand mudsnails were not yet abundant in cold-water spring flows with colonies of the Utah valvata snail, but that they likely did compete with the species in the mainstem Snake River habitats (57 FR 59254). Surveys have found that Utah valvata snails and New Zealand mudsnails frequently co-occur in cold-water spring, mainstem Snake River, and reservoir habitats (37 percent co-occurrence in combined habitat types), which may indicate that these two species are able to co-exist or that they actually have slightly different resource preferences (*e.g.,* periphytic vs. perilithic algae) (Hinson 2006, p. 42). However, Hinson (2006, p. 41) also notes that the overlap in habitat utilization between the Utah valvata snail and the New Zealand mudsnail could lead to direct competition for resources between these two species.

In 2002 and 2004, the USBR reported that New Zealand mudsnails were increasing in Lake Walcott, yet the densities observed were substantially lower than those observed in mainstem Snake River habitats (USBR 2003, p. 19; USBR 2005, p. 6). Further upstream, surveys conducted throughout American Falls Reservoir indicate that the distribution of New Zealand mudsnails appears to be limited to the upper end of American Falls Reservoir near the input of the Snake and Portneuf rivers (USBR 2003, p. 21), where the habitat is not dewatered due to water withdrawals for irrigation. Surveys conducted even further upstream in the Snake River and tributaries (Fields 2005, pp. 8–12) found moderate-to-high densities of the New Zealand mudsnail at five sites. However, Fields (2005, p. 10) stated that the current distribution of New Zealand mudsnails in the Snake River above American Falls Reservoir could more strongly reflect patterns of introductions rather than habitat preferences. Populations of the New Zealand mudsnail are not known to occur in the Wood River, where a small native or introduced population of the Utah valvata snail is thought to occur. The overall impact on the Utah valvata snail from the nonnative New Zealand mudsnail is not fully understood (Lysne 2003, pp. 85–86; Hinson 2006, p. 41). However, after approximately 20 years of co-occurrence, there is no evidence suggesting that the New Zealand mudsnail has supplanted or poses an extinction risk to the Utah valvata snail (Gates *in litt.* 2009).

Climate Change

There is compelling evidence that we are living in a time of rapid, worldwide climate change. Although the extent of warming likely to occur is not known with certainty at this time, the Intergovernmental Panel on Climate Change (IPCC) has concluded that warming of the climate is unequivocal, and that continued greenhouse gas emissions at or above current rates will cause further warming (IPCC 2007, p.

30). For example, 11 of the last 12 years evaluated (1995–2006) rank among the 12 warmest years since 1850 (ISAB 2007, p. iii). In the Pacific Northwest, regionally averaged temperatures have risen 1.5 degrees F (0.8 degrees C) over the last century, and are projected to increase by another 3 to 10 degrees F (1.5 to 5.5 degrees C) over the next 100 years (Mote *et al.* 2003, p. 54; Karl *et al.* 2009, p. 135). While the specific effects of global climate change on the Utah valvata snail are unclear, aquatic species and their habitats may be particularly vulnerable to changes in temperatures and precipitation patterns.

Rising temperatures due to climate change can affect aquatic species, such as the Utah valvata snail, by altering the timing and precipitation events in the Pacific Northwest (Karl *et al.* 2009, p. 135). Increased cool season temperatures cause precipitation to fall in the form of rain as opposed to snow, contributing to earlier snowmelt, earlier timing of spring runoff, and lower water levels during the warm season (Karl *et al.* 2009, p. 135). Many fish and wildlife species in the Pacific Northwest, especially aquatic species, are dependent on the timing of spring snowmelt runoff (Karl *et al.* 2009, p. 135). Areas along the warmer western slopes of the Cascade Mountains are projected to see a 30 percent or more reduction in warm season runoff by mid-century, while the interior, colder areas along the Rocky Mountains are projected to experience a smaller, 10 percent reduction in spring runoff (Karl *et al.* 2009, p. 135). Summer flows will also likely decrease while water temperature will increase, thereby stressing many aquatic organisms, especially those that have narrow temperature and depth requirements.

Despite projected changes in climate in the Pacific Northwest, we now know the Utah valvata snail is not as specialized in its habitat needs as we thought at the time of listing and can persist in a broad range of water flows, depths, and temperatures. In the Snake River, the species inhabits a diversity of aquatic habitats throughout its 255-mile (410 km) range, including cold-water springs, spring creeks and tributaries, mainstem and free-flowing waters, reservoirs, and impounded Snake River reaches. The species occurs on a variety of substrate types including both fine sediments and more coarse substrates in areas both with and without macrophytes. It has been collected at a wide range of water depths, ranging from less than 3.2 feet (1 meter) to greater than 45 feet (14 meters), and at water temperatures ranging from 37.4 to 75.2 degrees F (3 to 24 degrees C).

Summary of Factor E: The New Zealand mudsnail frequently co-occurs with the Utah valvata snail and may be competing for habitat or food. The New Zealand mudsnail can reach extremely high densities in the middle Snake River (Richards *et al.* 2001, p. 375), and has been recorded at moderate-to-high densities at five sites in tributaries to the Snake River and the Snake River above American Falls Reservoir. Populations of the New Zealand mudsnail are not known to occur in the Wood River. The precise impact on the Utah valvata snail from the invasion of the New Zealand mudsnail is unknown (Lysne 2003, pp. 85–86; Hinson 2006, p. 41). However, after approximately 20 years of co-occurrence, there is no evidence suggesting that the New Zealand mudsnail has supplanted or caused local extirpations of the Utah valvata snail.

Further, while numerous scientific studies indicate that the world is warming due to anthropogenic causes, and that increasing temperatures will impact precipitation patterns in the Pacific Northwest, it is difficult at this time to determine the precise effects this change will have on the Utah valvata snail. Nevertheless, given the wide variety of habitat conditions, water depths, and temperature ranges the Utah valvata snail has been found to occupy, the species is likely to be resilient to moderate changes in temperature and precipitation patterns. Therefore, threats from other natural or manmade factors do not rise to the level such that the species meets the definition of either endangered or threatened under the Act.

Conclusion

As required by the Act, we considered potential threat factors to assess whether the Utah valvata snail is endangered or threatened throughout its range. Information collected since the species' listing in 1992 indicates that the Utah valvata snail is widely distributed and occurs in a variety of ecological settings over a 255-mile range of the Snake River. Much of the Snake River within the range of the Utah valvata is influenced by seasonal dam operations for hydroelectric or agricultural purposes, yet the species persists in these varied mainstem Snake River systems, including impounded reservoir habitats (*e.g.,* Lake Walcott and American Falls reservoirs). None of the threats that we identified in the 1992 listing determination appear to be significant to the species (individually or in combination) in light of our current understanding of its distribution and life history; nor have we identified any significant new threats to the species. Therefore, we find that the Utah valvata snail is not in danger of extinction throughout its range, nor is it likely to become so in the foreseeable future.

The Service has determined that the original data for classification of the Utah valvata snail used in 1992 were in error. However, it is important to note that the original data for classification constituted the best scientific and commercial data available at the time and were in error only in the sense that they were incomplete when viewed in context of the data now available. The primary considerations to delist the Utah valvata snail are described in the five-factor analysis above.

Having determined that the Utah valvata snail does not meet the definition of endangered or threatened throughout its range, we must next consider whether there are any significant portions of its range that are in danger of extinction or are likely to become endangered in the foreseeable future. A portion of a species' range is significant if it is part of the current range of the species and is important to the conservation of the species because it contributes meaningfully to the representation, resiliency, or redundancy of the species. The contribution must be at a level such that its loss would result in a decrease in the ability to conserve the species.

Applying the definition described above, we first address whether any portions of Utah valvata's range warranted further consideration. Based on a genetic study of the Utah valvata snail (Miller *et al.* 2006a) and the ecological settings in which the species occurs throughout its range, three potential population units could be analyzed as to whether they constituted a significant portion of its range: The Wood River population unit (WRM 35), the Snake River population unit (RM 585 through RM 837), and the Hagerman population unit (isolated springs adjacent to the Snake River at RM 585). We then evaluated whether each unit constitutes a significant portion of the range of the species, and if so, whether that portion was endangered or threatened.

Wood River Population Unit

There is a high degree of uncertainty concerning the distribution and abundance of the species in the Wood River since there has been only one documented colony and systematic surveys have not been conducted. Based on the limited information we have on the Utah valvata snail in the Wood River, this colony does not appear to exist in an unusual or unique ecological

setting or contain a large portion of the habitat or individuals (in fact, it appears to constitute an extremely small portion of the overall habitat and number of individuals). Further, a genetics study conducted by Miller *et al.* (2006a, pp. 2367–2372) found that the Wood River occurrence is not genetically divergent or unique from the Snake River population unit. Because of genetic similarities between Utah valvata snails in the Snake River and Wood River units, the Wood River unit could provide some redundancy to the species if the Snake River unit (see below for further information) is extirpated by a catastrophic event. However, given that Utah valvata snails are distributed discontinuously along 255 miles (410 km) of the Snake River unit, a catastrophic event of the magnitude necessary to simultaneously eliminate all Utah valvata snail colonies from the Snake River unit is highly unlikely. In addition, due to the geographic separation of the Wood River unit from the Snake River unit, it is unlikely that the Wood River unit would be a significant source of snails to recolonize the Snake River. Given these factors, we determined the Wood River population unit did not provide a significant contribution to the species with regard to redundancy, resiliency, and representation, and was not evaluated further.

Snake River Population Unit

The Snake River population unit contains the largest and widest ranging portion of the overall Utah valvata snail population and contributes substantially to the resiliency, representation, and redundancy of the species. Other information contributing to its significance includes: (1) The uppermost reaches of the Snake River unit, including the Henry's Fork River where Utah valvata snail occurs, is not influenced by dam and other water management operations, and water quality is considered to be better than that found in the Wood River or Hagerman reaches further downstream in the Snake River; (2) Lower Lake Walcott Reservoir has high densities and high proportional occurrence of the Utah valvata snail and likely provides refugia for the species primarily due to the human-induced stability of this reservoir environment; and (3) genetically, the Snake River population unit represents the ancestral haplotypes of this species (Miller et al. 2006a, p. 2368). For all of these reasons, we determined that the Snake River population unit of the Utah valvata snail constitutes a significant portion of the species' range. The Snake River population unit was then evaluated to determine if the Utah valvata snail is endangered or threatened in this portion of its range.

The Utah valvata snail is widely distributed and occurs in a variety of ecological settings in this population unit, including impounded reservoir habitats (*e.g.,* Lake Walcott and American Falls reservoirs). Water quality is relatively good in the upstream (Henry's Fork) reaches of this unit compared to other population units, and the New Zealand mudsnail has not become established throughout this unit. None of the threats that we identified in the 1992 listing determination appear to be significant to the Utah valvata snail in this population unit (individually or in combination) in light of our current understanding of its distribution and life history; nor have we identified any significant new threats to the species in this unit (see Rangewide analysis, above). Therefore, we find that the Utah valvata snail in the Snake River Population Unit is not in danger of extinction, nor is it likely to become so in the foreseeable future.

Hagerman Population Unit

The best available data indicate that the Hagerman population unit is likely isolated and separated geographically from other Utah valvata snail colonies farther upstream that constitute the Snake River population unit, but overall represents a small area of occupancy compared to the rest of the range of the species. The geographic isolation of the Hagerman population unit is an important consideration; the Miller et al. (2006) genetics paper suggests that Utah valvata snails found in cold-water spring outflows at the Thousand Springs Preserve may have been genetically isolated for over 10,000 years and should be evaluated to determine if they can reproduce with other Utah valvata snails elsewhere in their range. This population unit also has a unique ecological setting compared to the other two units, as the species mainly occurs in tributary springs (and at their cold-water outflows), and not in reservoir or riverine habitats.

In light of the above, we concluded that the Hagerman population unit may constitute a significant portion of the range of the Utah valvata snail. The Hagerman population unit was then evaluated to determine if the Utah valvata snail is endangered or threatened in this portion of its range.

Currently, water quality is not considered to be a threat that is of high severity or magnitude to the Hagerman population unit for the reasons outlined in Factor A of the rangewide analysis. Furthermore, two cold-water spring outflows, Box Canyon and Thousand Springs, provide a relatively high-quality and stable aquatic environment for some Utah valvata snail colonies. Although flows have recently declined in some cold-water springs due to groundwater withdrawals, and water quality and quantity could decrease over time if flows are not preserved, the Utah valvata snail would continue to persist in the mainstem Snake River in the Hagerman reach where it can tolerate variable water temperatures and water quality. Although there is evidence of some density-dependent effects and competition where the New Zealand mudsnail co-occurs with the Utah valvata snail, the Utah valvata snail continues to persist in these habitats. Despite approximately 20 years of co-occurrence of the New Zealand mudsnail and Utah valvata snail, there is no evidence suggesting that the New Zealand mudsnail has caused local extirpations of the Utah valvata snail in Hagerman reach. Therefore, we conclude that the Hagerman population unit of the Utah valvata snail is not endangered or threatened in this portion of its range.

In summary, our understanding of the Utah valvata snail's habitat requirements, range, and threats has changed since the time of listing. From studies conducted since 1992, we now know that the species occurs over a much larger geographic range in the Snake River, is able to live in a variety of aquatic habitats, and is not limited to cold, fast-water, or lotic habitats, or to perennial flowing waters associated with large spring complexes, as previously believed. In addition, the proposed construction of six new hydropower facilities as discussed at the time of listing is no longer a threat. The Utah valvata snail is now known to occur in, and persist in, aquatic habitats influenced by dam operations (*e.g.,* reservoirs, and at elevated water temperatures), and the species co-exists in a variety of Snake River aquatic habitats with the invasive New Zealand mudsnail. We have determined that none of the existing or potential threats, either alone or in combination with others, are likely to cause the Utah valvata snail to become in danger of extinction within the foreseeable future throughout all or any significant portion of its range. The Utah valvata snail no longer requires the protection of the Act, and, therefore, we are removing it from the Federal List of Endangered and Threatened Wildlife.

Effects of This Rule

This rule revises 50 CFR 17.11(h) to remove the Utah (desert) valvata snail from the List of Endangered and Threatened Wildlife. Because no critical habitat is designated for this species, this rule does not affect 50 CFR 17.95.

The prohibitions and conservation measures provided by the Act, particularly through sections 7 and 9, no longer apply. Federal agencies are no longer required to consult with us to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of this species.

Required Determinations

Paperwork Reduction Act of 1995

Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) require that Federal agencies obtain approval from OMB before collecting information from the public. This rule does not contain any new collections of information that require approval by Office of Management and Budget (OMB) under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

We have determined that we do not need to prepare an Environmental Assessment or Environmental Impact Statement, as defined under the authority of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), in connection with regulations adopted under section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited in this rule is available upon request from the Idaho Fish and Wildlife Office (see **ADDRESSES**).

Authors

The primary authors of this document are staff members of the Idaho Fish and Wildlife Office, U.S. Fish and Wildlife Service (see **ADDRESSES**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

■ Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

§ 17.11 [Amended]

■ 2. Amend § 17.11(h) by removing the entry for “Snail, Utah valvata” under “SNAILS” from the List of Endangered and Threatened Wildlife.

Dated: August 9, 2010.

Wendi Weber,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2010–20517 Filed 8–24–10; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 75, No. 164
Wednesday, August 25, 2010

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

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket ID: OCC–2010–0016]

RIN 1557–AD35

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulations H and Y; Docket No. R–1391]

RIN 7100–AD53

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

RIN 3064–AD62

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 567

[Docket ID: OTS–2010–0027]

RIN 1550–AC43

Advance Notice of Proposed Rulemaking Regarding Alternatives to the Use of Credit Ratings in the Risk-Based Capital Guidelines of the Federal Banking Agencies

AGENCIES: Office of the Comptroller of the Currency (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Office of Thrift Supervision (OTS).

ACTION: Joint Advance Notice of Proposed Rulemaking.

SUMMARY: The regulations of the Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (FRB), Federal Deposit Insurance Corporation (FDIC), and Office of Thrift Supervision (OTS) (collectively, the agencies) include various references to and requirements based on the use of credit ratings issued by nationally recognized statistical rating organizations (NRSROs). Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Act), enacted on July 21, 2010, requires the agencies to review their regulations that require the use of an assessment of creditworthiness of a security or money market instrument and make reference to, or have requirements regarding, credit ratings. The agencies must then modify their regulations to remove any reference to, or requirements of reliance on, credit ratings in such regulations and substitute in their place other standards of creditworthiness that the agencies determine to be appropriate for such regulations.

This advanced notice of proposed rulemaking (ANPR) describes the areas in the agencies' risk-based capital standards and Basel changes that could affect those standards that make reference to credit ratings and requests comment on potential alternatives to the use of credit ratings.

DATES: Comments on this ANPR must be received by October 25, 2010.

ADDRESSES: Comments should be directed to:

OCC: Because paper mail in the Washington, DC area and at the Agencies is subject to delay, commenters are encouraged to submit comments by the Federal eRulemaking Portal or e-mail, if possible. Please use the title "Advance Notice of Proposed Rulemaking Regarding Alternatives to the Use of Credit Ratings in the Risk-Based Capital Guidelines of the Federal Banking Agencies" to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal—*"*regulations.gov*"*:* Go to *http://www.regulations.gov.* Select "Document Type" of "Proposed Rules," and in "Enter Keyword or ID Box," enter Docket ID "OCC–2010–0016," and click "Search." On "View By Relevance" tab at bottom of screen, in the "Agency" column, locate the [insert type of rulemaking action] for OCC, in the "Action" column, click on "Submit a Comment" or "Open Docket Folder" to submit or view public comments and to view supporting and related materials for this rulemaking action.
- Click on the "Help" tab on the Regulations.gov home page to get information on using Regulations.gov, including instructions for submitting or viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.
- *E-mail: regs.comments@occ.treas.gov.*
- *Mail:* Office of the Comptroller of the Currency, 250 E Street, SW., Mail Stop 2–3, Washington, DC 20219.
- *Fax:* (202) 874–5274.
- *Hand Delivery/Courier:* 250 E Street, SW., Mail Stop 2–3, Washington, DC 20219.

Instructions: You must include "OCC" as the agency name and "Docket ID OCC–2010–0016" in your comment. In general, OCC will enter all comments received into the docket and publish them on the Regulations.gov Web site without change, including any business or personal information that you provide such as name and address information, e-mail addresses, or phone numbers. Comments received, including attachments and other supporting materials, 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.

You may review comments and other related materials that pertain to this advance notice of proposed rulemaking by any of the following methods:

- *Viewing Comments Electronically:* Go to *http://www.regulations.gov.* Select "Document Type" of "Public Submissions," and in "Enter Keyword or ID Box," enter Docket ID "OCC–2010–0016," and click "Search." Comments will be listed under "View By Relevance" tab at bottom of screen. If comments from more than one agency are listed, the "Agency" column will indicate which comments were received by the OCC.
- *Viewing Comments Personally:* You may personally inspect and photocopy comments at the OCC, 250 E Street, SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in

order to inspect and photocopy comments.

• *Docket:* You may also view or request available background documents and project summaries using the methods described above.

Board: You may submit comments, identified by Docket No. R–1391, by any of the following methods:

• *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *E-mail: regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.

• *FAX:* (202) 452–3819 or (202) 452–3102.

• *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Street, NW.) between 9 a.m. and 5 p.m. on weekdays.

FDIC: You may submit comments on the ANPR, by any of the following methods:

• *Agency Web site: http://www.FDIC.gov/regulations/laws/federal/notices.html.* Follow instructions for submitting comments on the Agency Web site.

• *E-mail: Comments@FDIC.gov.* Include RIN # on the subject line of the message.

• *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

• *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Instructions: All comments received will be posted generally without change to *http://www.fdic.gov/regulations/laws/federal/propose.html,* including any personal information provided.

OTS: You may submit comments, identified by OTS–2010–0027, by any of the following methods:

• *Federal eRulemaking Portal:* "Regulations.gov": Go to *http://www.regulations.gov* and follow the instructions for submitting comments.

• *Mail:* Regulation Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention: OTS–2010–0027.

• *Facsimile:* (202) 906–6518.

• *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–2010–0027.

• *Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted 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:* Go to *http://www.regulations.gov* and follow the instructions for reading comments.

• *Viewing Comments On-Site:* 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:

OCC: Mark Ginsberg, Risk Expert, Capital Policy Division, (202) 874–5070; or Carl Kaminski, Senior Attorney, Legislative and Regulatory Activities Division, (202) 874–5090, Office of the Comptroller of the Currency, 250 E. Street, SW., Washington, DC 20219.

Board: Thomas Boemio, Senior Project Manager, (202) 452–2982; William Treacy, Advisor, (202) 452–3859, Christopher Powell, Financial Analyst, (202) 912–4353, Division of Banking Supervision and Regulation; or Benjamin McDonough, Counsel, (202) 452–2036, or April Snyder, Counsel, (202) 452–3099; Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

FDIC: Bobby Bean, Chief, (202) 898–6705; Ryan Billingsley, Senior Policy Analyst, (202) 898–3797, Policy Section, Division of Supervision and Consumer Protection; or Mark Handzlik, Counsel, (202) 898–3990, or Michael B. Phillips, Counsel, (202) 898–3581, Supervision and Legislation Branch, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: Sonja White, Director, Capital Policy, (202) 906–7857, Teresa A. Scott, Senior Policy Analyst, Capital Policy, (202) 906–6478, or Marvin Shaw, Senior Attorney, Regulations and Legislation Division, (202) 906–6639, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

The agencies' regulations and capital standards include various references to and regulatory requirements based on the use of credit ratings issued by NRSROs.[1] Section 939A of the Act requires each Federal agency to review "(1) any regulation issued by such agency that requires the use of an assessment of the creditworthiness of a security or money market instrument; and (2) any references to or requirements in such regulations regarding credit ratings."[2] Each Federal agency must then "modify any such regulations identified by the review * * * to remove any reference to or requirement of reliance on credit ratings and to substitute in such regulations such standard of creditworthiness as each respective agency shall determine as appropriate for such regulations." In developing substitute standards of creditworthiness, an agency "shall seek to establish, to the extent feasible, uniform standards of creditworthiness" for use by the agency, taking into account the entities it regulates that would be subject to such standards.[3]

[1] A nationally recognized statistical rating organization (NRSRO) is an entity registered with the U.S. Securities and Exchange Commission (SEC) as an NRSRO under section 15E of the Securities Exchange Act of 1934. *See* 15 U.S.C. 78o–7, as implemented by 17 CFR 240.17g–1. On September 29, 2006, the President signed the Credit Rating Agency Reform Act of 2006 ("Reform Act") (Pub. L. 109–291) into law. The Reform Act requires a credit rating agency that wants to represent itself as an NRSRO to register with the SEC.

[2] Public Law 111–203, 124 Stat. 1376, section 939A (July 21, 2010). Although the agencies have conducted a broad review of their risk-based capital regulations to identify all references to credit ratings and consider alternatives, the agencies note that section 939A of the Dodd-Frank Act limits the required review of agency regulations to those pertaining to a creditworthiness assessment of a security or money market instrument.

[3] Id.

Through this advanced notice of proposed rulemaking (ANPR), the agencies are seeking to gather information as they begin to work toward revising their regulations and capital standards to comply with the Act. This ANPR describes the areas in the agencies' general risk-based capital rules,[4] market risk rules,[5] and advanced approaches rules [6] (collectively, the risk-based capital standards) where the agencies rely on credit ratings, as well as the Basel Committee on Banking Supervision's (Basel Committee) recent amendments to the Basel Accord.[7] The ANPR requests comment on potential alternatives to the use of credit ratings.[8]

II. Risk-Based Capital Standards

In June 2009, the agencies, as part of the international Joint Forum Working Group on Risk Assessment and Capital, participated in a stocktaking exercise to identify the use of credit ratings in relevant statutes, regulations, policies and guidance.[9] The agencies have identified multiple regulations that must be brought into compliance with Section 939A of the Act. Included among these regulations are the agencies' risk-based capital standards.

The agencies' risk-based capital standards reference credit ratings issued by NRSROs (credit ratings) in four general areas: (1) The assignment of risk weights to securitization exposures under the general risk-based capital rules and advanced approaches rules; [10] (2) the assignment of risk weights to claims on, or guaranteed by, qualifying securities firms under the general risk-based capital rules; [11] (3) the assignment of certain standardized specific risk add-ons under the agencies' market risk rule; [12] and (4) the determination of eligibility of certain guarantors and collateral for purposes of the credit risk mitigation framework under the advanced approaches rules.[13] In 2008, the agencies issued a notice of proposed rulemaking [14] that sought comment on implementation in the United States of certain aspects of the standardized approach in the Basel Accord. The Basel standardized approach for credit risk (Basel standardized approach) relies extensively on credit ratings to assign risk weights to various exposures. (Throughout the rest of this ANPR, references to the Basel standardized approach are references to the Basel Accord rather than the 2008 proposal.)

In 2009, the Basel Committee published the following documents that were designed to strengthen the risk-based capital framework in the Basel Accord: *Revisions to the Basel II Market Risk Framework* (Revisions Document); *Enhancements to the Basel II Framework* (Enhancements Document); and *Strengthening the Resilience of the Banking Sector.*[15] In the Enhancements Document, the Basel Committee introduced operational criteria to require banking organizations [16] to undertake independent analyses of the creditworthiness of their securitization exposures.[17] Implementation in the United States of the changes to the Basel Accord contained in the Revisions Document would be significantly affected by the need for the agencies to comply with section 939A of the Act.

The table below provides an overview of where credit ratings are referenced and used as the basis for a capital requirement along two dimensions of exposure category and capital framework.

Exposure category	General risk-based capital rules	Advanced approaches rules	Market risk rules	Basel standardized approach	Basel market risk framework (revisions document)
Sovereign	.....	.....	X	X	X
Public Sector Entity	.....	.....	X	X	X
Bank	.....	.....	.....	X	X
Corporate	X	.....	X	X	X
Securitization	X	X	X	X	X
Credit Risk Mitigation	X	X	.....	X	.....

[4] *See* 12 CFR part 3, appendix A (OCC); 12 CFR parts 208 and 225, appendix A (Board); 12 CFR part 325, appendix A (FDIC); 12 CFR part 567, subpart B (OTS).

[5] *See* 12 CFR part 3, appendix B (OCC); 12 CFR parts 208 and 225, appendix E (Board); 12 CFR part 325, appendix C (FDIC); OTS does not have a market risk rule.

[6] *See* 12 CFR part 3, appendix C (OCC); 12 CFR part 208, appendix F and 12 CFR part 225, appendix G (Board); 12 CFR part 325, Appendix D (FDIC); 12 CFR part 567, Appendix C (OTS).

[7] *See* "International Convergence of Capital Measurement and Capital Standards, a Revised Framework, Comprehensive Version," the Basel Committee on Banking Supervision, June 2006. The full text is available on the Bank for International Settlement's Web site, *http://www.bis.org/publ/bcbs128.htm.*

[8] The OCC is planning to issue a similar advance notice of proposed rulemaking addressing alternatives to the use of external credit ratings in the regulations of the OCC.

[9] *See,* "Stocktaking on the use of credit ratings", The Joint Forum. The full text is available on the Bank for International Settlement's Web site, *http://www.bis.org/publ/joint22.htm.*

[10] *See* 12 CFR part 3, Appendices A and C (OCC); 12 CFR part 208, Appendices A and F and 12 CFR part 225, Appendices A and G (Board); 12 CFR part 325, Appendix A and 12 CFR part 325 Appendix D (FDIC); 12 CFR part 567, subpart B and Appendix C (OTS).

[11] *See* 12 CFR part 3, Appendix A, section 3(a)(2)(xiii) (OCC); 12 CFR parts 208 and 225, Appendix A, section III.C.2 (Board); 12 CFR part 325, Appendix A, section II.C. (FDIC); 12 CFR 567.6 (OTS).

[12] *See* 12 CFR part 3, Appendix B, section 5 (OCC); 12 CFR parts 208 and 225, Appendix E, section 5 (Board); 12 CFR part 325, Appendix C, section 5 (FDIC); OTS does not have a market risk rule.

[13] *See* the definition of "eligible double default guarantor," "eligible securitization guarantor," and "financial collateral" in the agencies advanced approaches rules. 12 CFR part 3, Appendix C, section 2 (OCC); 12 CFR part 208, Appendix F section 2 and 12 CFR part 225, Appendix G section 2 (Board); 12 CFR part 325, Appendix D section 2 (FDIC); 12 CFR part 567, Appendix C, section 2 (OTS).

[14] 73 FR 43982.

[15] *See* "Revisions to the Basel II Market Risk Framework" (July 2009, Basel Committee); "Guidelines for Computing Capital for Incremental Risk in the Trading Book" (July 2005, joint publication of the Basel Committee and International Organization for Securities Commissioners); "Enhancements to the Basel II Framework" (July 2009, Basel Committee); and "Strengthening the Resilience of the Banking Sector" (December 2009, Basel Committee).

[16] For simplicity, and unless otherwise indicated, this ANPR uses the term "banking organization" to include banks, savings associations, and bank holding companies.

[17] These operational criteria would require a bank to have a comprehensive understanding of the risk characteristics of its individual securitization exposures; be able to access performance information on the underlying pools on an on-going basis in a timely manner; and have a thorough understanding of all structural features of a securitization transaction. Enhancements Document, paragraphs 565(i)–(iv).

III. Request for Comment

This ANPR seeks comment on standards of creditworthiness other than credit ratings that may be used for purposes of the risk-based capital standards. The various alternative approaches in this ANPR may present challenges of feasibility in varying degrees. The agencies would appreciate commenters' views on the feasibility of implementing the suggestions for alternative approaches in this ANPR and any methodologies that commenters may provide.

a. Creditworthiness Standards

Section 939A of the Act requires the agencies to establish, to the extent feasible, uniform standards of creditworthiness to replace references to, or requirements of reliance on, credit ratings for purposes of the agencies' regulations. The agencies are therefore considering alternative creditworthiness standards, including those currently in use in the agencies' regulations, supervisory guidance, and market practices. The agencies recognize that any measure of creditworthiness will involve a tradeoff among the principles listed below. For example, a more refined differentiation of risk might be achievable only at the expense of greater implementation burden. In evaluating any standard of creditworthiness for purposes of determining risk-based capital requirements, the agencies will, to the extent practicable and consistent with the other objectives, consider whether the standard would:

- Appropriately distinguish the credit risk associated with a particular exposure within an asset class;
- Be sufficiently transparent, unbiased, replicable, and defined to allow banking organizations of varying size and complexity to arrive at the same assessment of creditworthiness for similar exposures and to allow for appropriate supervisory review;
- Provide for the timely and accurate measurement of negative and positive changes in creditworthiness;
- Minimize opportunities for regulatory capital arbitrage;
- Be reasonably simple to implement and not add undue burden on banking organizations; and
- Foster prudent risk management.

Question 1: The agencies seek comment on the principles that should guide the formulation of creditworthiness standards. Do the principles provided above capture the appropriate elements of sound creditworthiness standards? How could the principles be strengthened?

b. Possible Alternatives to Credit Ratings in the Risk-Based Capital Standards

The agencies' existing risk-based capital standards include a range of approaches to differentiating credit risk. At one end of the spectrum, the agencies' general risk-based capital rules provide a relatively simple approach to measuring and differentiating risk based on the use of broad risk buckets. This approach requires all corporate exposures, for example, to receive the same risk weight, regardless of the variation in risks that exist across corporate exposures. This simple approach has limited risk sensitivity. At the other end of the spectrum, the agencies' advanced approaches rules require a banking organization to make its own assessment of the credit risk of a corporate exposure, subject to a number of agency-prescribed standards. This assessment is then used as an input into a supervisory formula to calculate minimum risk-based capital requirements. Relatively consistent assessments of risk across exposure categories and across banking organizations could be more difficult to achieve with this approach. The agencies' rules also incorporate other methods for assessing risk-based capital requirements, including the use of NRSRO ratings.

The agencies are considering a wide range of approaches of varying complexity and risk-sensitivity for developing creditworthiness standards for the risk-based capital standards. These include developing risk weights for exposure categories based on objective criteria established by regulators, similar to the current risk-bucketing approach of the general risk-based capital rules. The approaches also include developing broad qualitative and quantitative creditworthiness standards that banking organizations could use, subject to supervisory oversight, to measure the credit risk associated with exposures within a particular exposure category. These general approaches present certain advantages and disadvantages. In considering these approaches, the agencies will evaluate the extent to which the alternatives meet the principles described above.

Risk Weights Based on Exposure Category: One way to eliminate references to credit ratings in the risk-based capital standards would be for the agencies to delete all of the sections in their risk-based capital regulations that refer to credit ratings and retain the remainder of the general risk-based capital rules. Under this approach, all non-securitization exposures generally would receive a 100 percent risk-weight unless otherwise specified. For example, certain sovereign and bank exposures would be assigned a zero percent or a 20 percent risk weight, respectively. Alternatively, the agencies could revise the risk-weight categories for exposures by considering the type of obligor, for example, sovereign, bank, public sector entity (PSE),[18] as well as considering other criteria, such as the characteristics of the exposure, which could increase the risk sensitivity of the risk-based capital requirements by providing a wider range of risk-weight categories.

Exposure-Specific Risk Weights: Under this approach, banking organizations could assign risk weights to individual exposures using specific qualitative and quantitative credit risk measurement standards established by the agencies for various exposure categories. Such standards would be based on broad creditworthiness metrics. For instance, exposures could be assigned a risk weight based on certain market-based measures, such as credit spreads; or obligor-specific financial data, such as debt-to-equity ratios or other sound underwriting criteria. Alternatively, banking organizations could assign exposures to one of a limited number of risk weight categories based on an assessment of the exposure's probability of default or expected loss.

As part of an exposure-specific approach, the agencies are considering whether banking organizations should be permitted to contract with third-party service providers to obtain quantitative data, such as probabilities of default, as part of their process for making creditworthiness determinations and assigning risk weights. While this method could increase risk sensitivity, consistent application across exposure categories and across banking organizations could be more difficult to achieve.

Alternatively, the agencies could consider an approach for debt securities similar to that adopted by the National Association of Insurance Commissioners, under which a third party financial assessor would inform the agencies' understanding of risks and their ultimate determination of the risk-based capital requirement for individual securities.[19] One potential drawback of this approach is excessive reliance on a single third-party assessment of risk.

[18] A PSE exposure is an exposure to a state, local authority, or other government subdivision below the sovereign entity level.

[19] *See http://www.naic.org/rmbs/index.htm#background.*

Regardless of the approach used, the agencies would establish strict quantitative and qualitative criteria to ensure that the methodology employed is consistent with safe and sound banking practices.

Question 2: What are the advantages and disadvantages for each of these general approaches? What, if any, combination of the approaches would appropriately reflect exposure categories and the sophistication of individual banking organizations? What other approaches do commenters believe would meet the agencies' suggested criteria for a creditworthiness standard? If increasing reliance is placed on banking organizations to assign risk weights for credit exposures using the types of approaches described above, how would the agencies ensure consistency of capital treatment for similar exposures? How could the use of third-party providers be implemented to ensure quality, transparency, and consistency?

c. Exposure-Specific Options for Measuring Creditworthiness

The broad approaches discussed above could be applied in various ways across the agencies risk-based capital rules as well as existing exposure categories. While the range of approaches is potentially applicable to all exposure categories, the sections below provide a more detailed discussion of how the approaches might be implemented by exposure categories.

i. Sovereign Exposures

The agencies' general risk-based capital rules risk weight exposures to sovereign entities based on membership in the Organization for Economic Cooperation and Development (OECD).[20] However, under the Basel standardized approach, a banking organization would assign a risk weight to a sovereign exposure based on the external credit rating of the sovereign by a credit rating agency.[21] The current market risk rule and the Basel modified market risk framework also make use of ratings for sovereign exposures.

There are several alternative methodologies that could be used to risk weight sovereign exposures that have different implications for risk sensitivity. One option would be to assign risk weights for sovereign exposures based on whether the sovereign is a member of an organization other than the OECD, such as the G–20 or the Basel Committee on Banking Supervision, or whether it participates in the International Monetary Fund (IMF) New Arrangements to Borrow. This type of approach would be operationally simple, but would not recognize differences in creditworthiness among the individual member nations within an organization. An additional degree of risk sensitivity could be incorporated into this approach by adding additional criteria beyond membership in a given organization. For instance, a higher risk weight could be assigned to an exposure to a sovereign entity if it had restructured its debt within a specified period of time or if its creditworthiness deteriorated based on some market indicator (for example, credit spreads).

The agencies could also consider incorporating into standards of creditworthiness country risk classifications generated by the OECD, the World Bank, or a similar organization. This approach could assign risk weights according to the relative credit risk of each risk classification or designation. Under such an approach, exposures to sovereigns classified as having lower credit risk would receive lower risk weights, and exposures classified as higher risk would receive higher risk weights.

A third option would be to differentiate the credit risk of sovereign exposures based on certain key financial and economic indicators. For example, risk weights could be assigned based on one or more ratios such as gross debt per capita, real gross domestic product growth rate, or government debt and foreign reserves. Such a treatment would require the agencies to select specific ratios and acceptable data sources, for example, from the IMF or the OECD.

Question 3: What are the advantages and disadvantages of these alternative methods? How can the agencies ensure consistent and transparent implementation? Should the agencies consider other international organizations? Which financial and economic indicators should the agencies consider? What are the implications or potential unintended consequences? Are there other methods for assessing risk-based capital requirements for sovereign exposures that would meet the principles described in section III? Commenters are asked to provide quantitative as well as qualitative support and/or analysis for proposed alternative methods.

ii. Public Sector Entity (PSE) exposures

The agencies' general risk-based capital rules assign risk weights to PSE exposures based on the repayment source for the exposure (for example, whether the exposure is a general obligation, revenue, or industrial revenue bond) and membership of the PSE's sovereign government in the OECD.[22] Under the Basel standardized approach, PSE exposures would be risk weighted based on the credit rating of the exposure or the risk weight of the sovereign.[23] The current market risk rule and the Basel modified market risk framework also make use of credit ratings for PSE exposures.

One approach would be to continue to use the general risk-based capital rules' treatment of differentiating the risk of PSEs based on the type of exposure, the sovereign of incorporation, and by how revenues are collected for the PSE exposure.

Alternatively, the agencies could provide some incremental risk sensitivity by differentiating revenue bond issuers by type of service or business. As with sovereign exposures, risk weighting could be based on several financial and economic measures. For example, the agencies could assign risk weights based on one or more ratios, such as a relevant debt service obligation to cash flow ratio (for example, debt to revenue), and/or debt to market value of certain assets (for example, real estate). The agencies also could incorporate credit spreads to help differentiate credit risk among PSE exposures. Other options include permitting banking organizations to assign risk weights to PSE exposures based on the applicable risk weight of the sovereign of incorporation, or using data obtained from qualified third parties to inform creditworthiness assessments based upon a set of objective criteria established by the agencies.

Question 4: What are the advantages and disadvantages of these alternative methods for calculating risk-based capital requirements for PSE exposures? How can the agencies ensure consistent and transparent implementation? Which services and businesses, or financial and economic measures, should the agencies consider? What are the implications or potential for

[20] *See* 12 CFR part 3, Appendix A, section 3(a) (OCC); 12 CFR parts 208 and 225, Appendix A, section III.C (Board); 12 CFR part 325, Appendix A, section II.C. (FDIC); 12 CFR 567.6 (OTS). The OECD-based group of countries comprises all full members of the OECD, as well as countries that have concluded special lending arrangements with the International Monetary Fund (IMF) associated with the IMF's General Arrangements to Borrow. The list of OECD countries is available on the OECD Web site at *http://www.oecd.org*.

[21] Basel Accord, Paragraphs 53–56.

[22] *See* 12 CFR part 3, Appendix A, section 3(a) (OCC); 12 CFR parts 208 and 225, Appendix A, section III.C (Board); 12 CFR part 325, Appendix A, section II.C (FDIC); 12 CFR 567.6 (OTS).

[23] Basel Accord, paragraphs 57–58.

unintended consequences? Are there other methods for assessing risk-based capital for PSE exposures in a relatively risk sensitive manner that would meet the principles described in section III? Commenters are asked to provide quantitative as well as qualitative support and/or analysis for proposed alternative methods.

iii. Bank Exposures

The agencies' general risk-based capital rules generally assign a 20 percent risk weight to exposures to U.S. depository institutions and foreign banks.[24] Long-term exposures to banks not incorporated in OECD countries are assigned a 100 percent risk weight. Under the Basel standardized approach, bank exposures would be risk weighted based either on the risk weight of the sovereign or the credit rating of the exposure.[25] The market risk rule and the Basel modified market risk framework also use ratings for bank exposures.

One option for risk weighting bank exposures is to continue to use the general risk-based capital treatment, which bases the risk weight for bank exposures on whether the sovereign where the bank is incorporated is a member of the OECD. Another method for risk weighting bank exposures could be based on several financial measures and market indicators. For example, the agencies could assign risk weights based on one or more ratios such as funding (for example, core deposits to total liabilities) and/or credit quality (for example, non-performing items to total assets). This method also could be supplemented for banks with publicly traded securities with market-based information such as a banking organization's unsecured bond spreads over comparable Treasury securities.

Question 5: What are the advantages and disadvantages of these alternative methods for calculating risk-based capital requirements for bank exposures? How can the agencies ensure consistent and transparent implementation? Which financial and market indicators should the agencies consider? What are the implications or potential for unintended consequences? Are there other methods for assessing risk-based capital for bank exposures in a relatively risk sensitive manner that would meet the principles described in section III? Commenters are asked to provide quantitative as well as qualitative support and/or analysis for proposed alternative methods.

iv. Corporate Exposures

Under the agencies' general risk-based capital rules, corporate exposures generally [26] receive a risk weight of 100 percent,[27] whereas under the Basel standardized approach, banking organizations would be allowed to use credit ratings to assign risk weights to corporate exposures.[28] The current market risk rule and the Basel modified market risk framework also use credit ratings for corporate exposures.

One option for risk weighting corporate exposures would be to continue to use the treatment provided in the general risk-based capital rules and require banking organizations to risk weight all corporate exposures at 100 percent. Another method would be to differentiate the credit risk of corporate exposures based on financial and economic measures appropriate to the borrower. For example, the agencies could allow banking organizations to assign risk weights based on balance sheet or cash flow ratios, such as current assets to current liabilities, debt to equity, or some form of debt service to cash flow ratio (for example, current interest and maturities to current cash flow from operations). Alternatively, some corporate exposures for publicly traded firms could be risk weighted on the basis of market-based measures, such as credit spreads and equity-price implied default probability, and measures of capital adequacy and liquidity.

Finally, the agencies could allow banking organizations to assign risk weights based upon a more flexible set of objective criteria that the agencies would establish by rule. As a part of their process for making creditworthiness determinations and assigning risk weights, banking organizations would be allowed to consider external data, including credit analyses (but not credit ratings) provided by third parties, that met standards established by the agencies.

Question 6: What are the advantages and disadvantages of these alternative methods? What are the implications or potential for unintended consequences? If all banking organizations are allowed to calculate their own capital requirements for corporate exposures, how can the agencies ensure consistent and transparent implementation (for example, where there may be material differences in how financial statements are typically presented or differences in chosen financial ratios)? What different approaches or other financial or market criteria would commenters recommend? Are there other methods for assessing risk-based capital for corporate exposures in a relatively risk sensitive manner that would meet the principles described in section III? Commenters are asked to provide quantitative, as well as qualitative, support and/or analysis for proposed alternative methods.

v. Securitization Exposures

Under the agencies' general risk-based capital rules, a banking organization may use credit ratings to assign risk weights to certain securitization exposures.[29] Generally, when a banking organization cannot, or chooses not to use the ratings-based approach, it must either "gross-up" the exposure or hold dollar-for-dollar capital against the exposure. These latter methods are designed to capture the risk of unrated or low rated exposures that typically are subordinate in the capital structure of a securitization. Under the advanced approaches rules and the Basel standardized approach, a banking organization is required to use a ratings-based approach when available to assign risk weights to traditional and synthetic securitization exposures.[30] Both the advanced approaches rules and the Basel standardized approach also provide alternative approaches for determining the capital requirements for exposures that do not qualify for the ratings-based approach. The market risk rule and the Basel modified market risk framework also use credit ratings for securitization exposures.

Prior to the implementation of the recourse, direct credit substitutes, residual interests and mortgage- and asset-backed securities rule in 2001 (recourse rule),[31] the agencies' general risk-based capital rules did not rely on credit ratings to determine risk weights for securitization exposures. In addition to establishing a risk-weighting framework based on credit ratings, the recourse rule established an alternative risk-weighting framework for certain

[24] *See* 12 CFR part 3, Appendix A, section 3(a)(2);12 CFR parts 208 and 225, Appendix A, section III.C (Board); 12 CFR part 325, Appendix A, section II.C (FDIC); 12 CFR 567.6 (OTS).

[25] Basel Accord, paragraphs 60–64.

[26] Certain claims on, or claims guaranteed by, qualifying securities firms may receive a 20 percent risk weight.

[27] *See* 12 CFR part 3, Appendix A, section 3(a) (OCC); 12 CFR parts 208 and 225, Appendix A, section III.C (Board); 12 CFR part 325, Appendix A, section II.C (FDIC); 12 CFR 567.6(a)(1)(iv) (OTS).

[28] Basel Accord, paragraphs 66–68.

[29] *See* 12 CFR part 3, Appendix A, section 4 (OCC) ; 12 CFR parts 208 and 225, Appendix A, section III.B.3 (Board); 12 CFR part 325, Appendix A, section II.B.5 (FDIC); 12 CFR parts 567, subpart B (OTS).

[30] Basel Accord, Paragraph 567 (Basel standardized approach) and 12 CFR part 3, Appendix C, section 43(b) (OCC); 12 CFR part 208, Appendix F section 43(b) and 12 CFR part 225, Appendix G section 43(b) (Board); 12 CFR part 325, Appendix D, section 43(b) (advanced approaches rule) (FDIC); 12 CFR part 567, Appendix C, section 43(b) (OTS).

[31] 66 FR 59617 (November 29, 2001).

securitization exposures (a gross-up treatment reflecting the risk of more subordinated tranches of securitizations). The agencies could apply the risk-based capital rules in effect prior to the implementation of the recourse rule, which would eliminate all references to credit ratings. This would result in all securitization exposures receiving the same risk weight regardless of the amount of subordination in the securitization structure. Alternatively, the agencies could:

- Require that banks apply the aforementioned "gross-up" treatment under which a bank must maintain capital against its securitization exposure, as well as against all more senior exposures that the bank's exposure supports in the structure. The grossed-up exposure would then be assigned to the risk weight appropriate to the underlying securitized exposures.
- Differentiate the credit risk of the "grossed-up" securitization exposure based on financial and structural parameters of the underlying or reference pool of instruments, as well as the exposure itself. For example, risk weights could be assigned based on the securitization transaction's overcollateralization ratio, interest coverage ratio, or priority in the cash flow waterfall.
- Assign the most senior securitization exposure in a transaction a risk weight based on the underlying exposure type and the aggregate amount of subordination that provides credit enhancement to the exposure. For example, the greater the amount of subordination, the lower the risk weight to which the senior exposure would be assigned. However, this approach would only apply to the senior-most tranche and would not distinguish between exposures with significant credit support and those where the support had been reduced or eliminated by losses.
- Adopt the Basel Committee's approach to calculating capital requirements for securitization exposures that is based on the level of subordination and the type of underlying exposures in the Revisions Document. The approach would use a "concentration ratio" to set the minimum risk-based capital requirements for securitization positions. The concentration ratio is equal to the sum of the notional amounts of all the tranches divided by the sum of the notional amounts of the tranches junior to or *pari passu* with the tranche in which the position is held including that tranche itself. The capital requirement is 8 percent of the weighted-average risk weight that would be applied to the underlying securitized exposures multiplied by the concentration ratio. If the concentration ratio is 12.5 or higher, the position would be deducted from capital. Under this approach, the capital requirement would be no less than that which would result from a direct exposure to the underlying assets.
- Design a risk-weighting approach based on a supervisory formula. Building on the capital requirements of the underlying exposures, the agencies could recognize multiple sources of risk related to securitizations and impose provisions that limit some forms of arbitrage. Under the advanced approaches rules, for example, banking organizations are allowed to use the supervisory formula approach (SFA) to calculate minimum regulatory capital requirements for certain securitization exposures.[32] This approach uses exposure-specific inputs, including the capital requirement of the underlying exposures as if held directly by the banking organization. The inputs required for calculating the capital requirement of the underlying exposures are not always available for investing banking organizations. Nevertheless, the agencies could develop a simplified version of the SFA that could be applied by all banking organizations. Depending upon the parameters used in the SFA, this approach could increase risk sensitivity, as well as potentially increasing transparency in the securitization market.

Question 7: What are the advantages and disadvantages of these approaches for calculating risk-based capital requirements for securitization exposures? How can the agencies ensure consistent and transparent implementation? Which parameters or measures of subordination and structure should the agencies consider? What are the implications or potential for unintended consequences? How can the agencies ensure that an alternative approach meets the criteria for a creditworthiness standard? What other approaches or specific financial and structural parameters that would be appropriate standards of creditworthiness for securitization exposures? Commenters are asked to provide quantitative as well as qualitative support and/or analysis for proposed alternative methods.

vi. Guarantees and Collateral

The agencies' general risk-based capital rules generally limit the recognition of third-party guarantees to those provided by central governments, U.S. government agencies, banks, state and local governments of OECD countries, qualifying securities firms, and multilateral lending institutions and regional development banks. The general risk-based capital rules recognize collateral in the form of cash, securities issued or guaranteed by OECD central governments, securities issued by U.S. government agencies or U.S. government-sponsored agencies, and securities issued by multilateral lending institutions and regional development banks.[33]

Under the Basel standardized approach, guarantor eligibility is based on the credit rating of the guarantor's unsecured long-term debt security without credit enhancement that has a long-term external credit rating.[34] In addition, financial collateral includes, among other things, long-term debt securities that have an external credit rating of one category below investment grade or higher and short-term debt securities that have an external credit rating of at least investment grade.[35]

The advanced approaches rules recognize the risk reducing effects of financial collateral and guarantees.[36] Eligible financial collateral includes long-term debt securities that have a credit rating of one category below investment grade or higher and short-term debt securities that have a credit rating of at least investment grade.[37] Guarantors eligible for double default treatment include those entities that a banking organization assigns a probability of default equal to or lower than the probability of default associated with a long-term credit rating in the third-highest investment grade category.[38]

One option would be to expand the use of the recognition of collateral and

[32] *See* 12 CFR part 3, Appendix C section 45 (OCC); 12 CFR part 208, Appendix F section 45 and 12 CFR part 225, Appendix G section 45 (Board); 12 CFR part 325, Appendix D, section 45 (FDIC); 12 CFR part 567, Appendix C, section 45 (OTS).

[33] *See* 12 CFR part 3, Appendix A (OCC), 12 CFR parts 208 and 225, Appendix A, section III.B (Board); 12 CFR part 325, Appendix A, section II.B.2 (FDIC); 12 CFR 567.6 (OTS).

[34] Basel Accord, paragraph 195.

[35] Id. at paragraph 145.

[36] *See* 12 CFR part 3, Appendix C, sections 33 and 34 (OCC); 12 CFR part 208, Appendix F sections 34 and 35 and 12 CFR part 225, Appendix G sections 34 and 35 (Board); 12 CFR part 325, Appendix D, sections 34 & 35 (FDIC); 12 CFR part 567, Appendix C, sections 34–35 (OTS).

[37] Id.

[38] *See* the definition of "eligible double-default guarantor" in the agencies' advanced approaches rules. 12 CFR part 3, Appendix C, section 2 (OCC); 12 CFR part 208, Appendix F section 2 and 12 CFR part 225, Appendix G section 2 (Board); 12 CFR part 325, Appendix D, section 2 (FDIC); 12 CFR part 567, Appendix C, section 2 (OTS).

guarantees as provided in the general risk-based capital rules, that is, by substituting the risk weight appropriate to the guarantor or collateral for that of the exposure. This approach would have to be modified to exclude mention of external credit ratings for certain securities firms. The agencies could also incorporate into the recognition of collateral and guarantees some of the creditworthiness standards discussed above for sovereign, PSE, bank, and corporate exposures.

Question 8: What are the advantages and disadvantages of the alternative approaches? What are the implications or potential for unintended consequences? Are there other approaches that would more appropriately capture the risk-mitigating effects of collateral and/or guarantees without adding undue cost or burden? Commenters are asked to provide quantitative as well as qualitative supporting data and/or analysis for proposed alternative methods.

d. Burden

The agencies recognize that any measure of creditworthiness will involve a tradeoff among the objectives discussed in this ANPR. As previously noted, the agencies recognize that a more refined differentiation of creditworthiness may be achievable only at the expense of greater implementation burden. The agencies seek comment on the costs and burden that various alternative standards might entail. In particular, the agencies are interested in whether the development of alternatives to the use of credit ratings would involve, in most circumstances, cost considerations greater than those under the current regulations.

Question 9: What burden might arise from the implementation of alternative methods of measuring creditworthiness at banking organizations of varying size and complexity? Commenters are asked to provide quantitative as well as qualitative support for their burden estimates. In addition to the cost burden, the agencies seek comment on the feasibility of implementing various alternatives, particularly for community and mid-sized banks.

Dated: August 9, 2010.

John C. Dugan,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, this 10th day of August 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

Dated at Washington, DC, this 10th day of August 2010.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: August 11, 2010.

By the Office of Thrift Supervision.

John E. Bowman,

Acting Director.

[FR Doc. 2010–21051 Filed 8–24–10; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P; 6720–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0805; Directorate Identifier 2010–NM–042–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD 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: Several cases of aileron terminal quadrant support brackets that were manufactured using sheet metal have been found cracked on DHC–8 Series 300 aircraft. Investigation revealed that the failure of the support bracket was due to fatigue. Failure of the aileron terminal quadrant support bracket could result in an adverse reduction of aircraft roll control. These conditions could result in loss of control of the airplane. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by October 12, 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.

For service information identified in this proposed 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*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Craig Yates, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7355; fax (516) 794–5531.

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–2010–0805; Directorate Identifier 2010–NM–042–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 based on those comments.

We have lengthened the 30-day comment period for proposed ADs that address MCAI originated by aviation authorities of other countries to provide adequate time for interested parties to submit comments. The comment period for these proposed ADs is now typically 45 days, which is consistent with the comment period for domestic transport ADs.

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2009–45, dated December 11, 2009 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> Several cases of aileron terminal quadrant support brackets that were manufactured using sheet metal have been found cracked on DHC–8 Series 300 aircraft. Investigation revealed that the failure of the support bracket was due to fatigue. Failure of the aileron terminal quadrant support bracket could result in an adverse reduction of aircraft roll control.
>
> This directive mandates the replacement of the aileron terminal quadrant support bracket with a new and improved machined part.

These conditions could result in loss of control of the airplane. The required actions include installing new aileron input quadrant support brackets. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Bombardier has issued Service Bulletin 8–57–43, Revision B, dated October 7, 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 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 the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

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 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

Based on the service information, we estimate that this proposed AD would affect about 13 products of U.S. registry. We also estimate that it would take about 72 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $1,080 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 costs. 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 the proposed AD on U.S. operators to be $93,600, or $7,200 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2010–0805; Directorate Identifier 2010–NM–042–AD.

Comments Due Date

(a) We must receive comments by October 12, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier, Inc. Model DHC–8–301, –311, and –315 airplanes, certificated in any category; having serial numbers 100 through 530 inclusive.

Subject

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

Reason

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

Several cases of aileron terminal quadrant support brackets that were manufactured using sheet metal have been found cracked on DHC–8 Series 300 aircraft. Investigation revealed that the failure of the support bracket was due to fatigue. Failure of the aileron terminal quadrant support bracket could result in an adverse reduction of aircraft roll control.

These conditions could result in loss of control of the airplane.

Compliance

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

Actions

(g) For airplanes with an aileron terminal quadrant support bracket having part number (P/N) 85711569: At the applicable times specified in paragraph (g)(1) or (g)(2) of this AD, install a new aileron input quadrant support bracket by incorporating MODSUM 8Q101250, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–57–43, Revision B, dated October 7, 2009.

(1) For airplanes that have accumulated 30,000 total flight hours or more as of the effective date of this AD: Within 3,000 flight hours after the effective date of this AD.

(2) For airplanes that have accumulated less than 30,000 total flight hours as of the effective date of this AD: Before the accumulation of 33,000 total flight cycles or within 6,000 flight hours after the effective date of this AD, whichever occurs first.

(h) Doing the installation by incorporating MODSUM 8Q101250 is also acceptable for compliance with the requirements of paragraph (g) of this AD if done before the effective date of this AD in accordance with Bombardier Service Bulletin 8–57–43, dated August 9, 2002; or Bombardier Service Bulletin 8–57–43, Revision A, dated January 17, 2003.

FAA AD Differences

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

Other FAA AD Provisions

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

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

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

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

Related Information

(j) Refer to MCAI Canadian Airworthiness Directive CF–2009–45, dated December 11, 2009; and Bombardier Service Bulletin 8–57–43, Revision B, dated October 7, 2009; for related information.

Issued in Renton, Washington, on August 18, 2010.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–21064 Filed 8–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0845; Directorate Identifier 2010–CE–044–AD]

RIN 2120–AA64

Airworthiness Directives; Diamond Aircraft Industries GmbH Models DA 40 and DA 40F Airplanes

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 all Diamond Aircraft Industries GmbH Models DA 40 and DA 40F airplanes. This proposed AD would change the emergency open doors procedure by incorporation of a temporary revision into the FAA-approved airplane flight manual for all airplanes. This proposed AD would also require replacement of the passenger door retaining bracket with an improved design retaining bracket for certain airplanes. This proposed AD results from several reports of the rear passenger door departing the airplane in flight. We are proposing this AD to change the emergency open doors procedure and retrofit the rear passenger door retaining bracket, which if not corrected could result in the rear passenger door departing the airplane in flight.

DATES: We must receive comments on this proposed AD by October 12, 2010.

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

For service information identified in this proposed AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria, telephone: +43 2622 26700; fax: +43 2622 26780; e-mail: *office@diamond-air.at*; Internet: *http://www.diamond-air.at.*

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; e-mail: *mike.kiesov@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number, "FAA–2010–0845; Directorate Identifier 2010–CE–044–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

substantive verbal contact we receive concerning this proposed AD.

Discussion

We have received information from Diamond Aircraft Industries GmbH that the Models DA 40 and DA 40F airplanes have had an estimated 31 rear passenger doors depart the airplane while in flight. They also estimate an additional 18 doors have been replaced because of damage to the hinge, primarily due to wind gust conditions while the airplane is parked. Diamond Aircraft Industries GmbH conducted a structural test to determine the root cause of the door opening in flight. The test concluded that the locking mechanism provided adequate strength to react the loads in flight. They determined that the root cause was the crew not properly securing the rear passenger door prior to flight.

Models DA 40 and DA 40F airplanes do have a secondary safety latch design feature. The initial intended design function of this latch was to hold the rear passenger door in the "near closed" position while on the ground, protecting the door from wind gusts. However, the original retainer bracket might not hold the door in this "near closed" position while in flight. Diamond Aircraft Industries GmbH has designed an improved retainer bracket to prevent the passenger rear door fully opening in flight. In addition, they have revised the emergency door open procedure.

This condition, if not corrected, could result in the rear passenger door departing the airplane in flight.

Relevant Service Information

We have reviewed Diamond Aircraft Industries GmbH Mandatory Service Bulletin NO. MSB 40–070/NO. MSB D4–079/NO. MSB F4–024, dated April 30, 2010; and Diamond Aircraft Industries GmbH Work Instruction WI–MSB 40–070/WI–MSB D4–079/WI–MSB F4–024, dated April 30, 2010.

The service information describes procedures for replacement of the passenger door retaining bracket with an improved design retaining bracket.

FAA's Determination and Requirements of the Proposed AD

We are proposing this AD because we evaluated all information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This proposed AD would require a retrofit of the rear passenger door retaining bracket for certain airplanes. This proposed AD would also change the emergency open doors procedure by incorporation of a temporary revision into the FAA-approved airplane flight manual for all airplanes.

Costs of Compliance

We estimate that this proposed AD would affect 699 airplanes in the U.S. registry.

We estimate the following costs to do the proposed revision to the airplane flight manual:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
.5 work-hour × $85 per hour = $42.50	Not Applicable	$42.50	$29,707.50

We estimate the following costs to do the proposed retrofit of the passenger door retaining bracket. We estimate that this would affect 428 airplanes in the U.S. registry:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
2 work-hours × $85 per hour = $170.00	$75.00	$245.00	$104,860.00

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

Examining the AD Docket

You may examine the AD docket that contains the proposed AD, the regulatory evaluation, any comments received, and other information 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 Docket Office (telephone (800) 647–5527) is located at the street address stated 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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Diamond Aircraft Industries GmbH: Docket No. FAA–2010–0845; Directorate Identifier 2010–CE–044–AD.

Comments Due Date

(a) We must receive comments on this airworthiness directive (AD) action by October 12, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Diamond Aircraft Industries GmbH Models DA 40 and DA 40F airplanes, all serial numbers (S/N), that are certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 52: Doors.

Unsafe Condition

(e) This AD results from several reports of the rear passenger door departing the airplane in flight. We are proposing this AD to change the emergency open doors procedure and retrofit the rear passenger door retaining bracket, which if not corrected could result in the rear passenger door departing the airplane in flight.

Compliance

(f) To address this problem, you must do the following, unless already done:

Actions	Compliance	Procedures
(1) *For all serial numbers:* Incorporate Diamond Aircraft Temporary Revision TR–MÄM 40–428, page 3–37b, dated April 30, 2010, into the FAA-approved airplane flight manual.	Within 6 months after the effective date of this AD.	Follow Diamond Aircraft Temporary Revision TR–MÄM 40–428, Cover Page, dated April 30, 2010.
(2) *For Model DA 40, S/N 40.006 through 40.009, 40.011 through 40.081, 40.084, and 40.201 through 40.749; and Model DA 40F S/N 40.FC001 through 40.FC009:* Replace the rear passenger door retaining bracket with an improved design retaining bracket.	Within 6 months after the effective date of this AD.	Follow Diamond Aircraft Industries GmbH Mandatory Service Bulletin NO. MSB 40–070/NO. MSB D4–079/NO. MSB F4–024, dated April 30, 2010; and Diamond Aircraft Industries GmbH Work Instruction WI–MSB 40–070/WI–MSB D4–079/WI–MSB F4–024, dated April 30, 2010.

Alternative Methods of Compliance (AMOCs)

(g) The Manager, Small Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; e-mail: *mike.kiesov@faa.gov.* 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.

Related Information

(h) To get copies of the service information referenced in this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria, telephone: +43 2622 26700; fax: +43 2622 26780; e-mail: *office@diamond-air.at*; Internet: *http://www.diamond-air.at.* To view the AD docket, go to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or on the Internet at *http://www.regulations.gov.*

Issued in Kansas City, Missouri, on August 18, 2010.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–21068 Filed 8–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 870, 884 and 892

[Docket No. FDA–2010–N–0412]

RIN 0910–AG51

Effective Date of Requirement for Premarket Approval for Four Class III Preamendments Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to require the filing of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for the following four class III preamendments devices: Ventricular bypass (assist) device; pacemaker repair or replacement material; female condom; and transilluminator for breast evaluation. The agency is also summarizing its proposed findings regarding the degree of risk of illness or injury designed to be eliminated or reduced by requiring the devices to meet the statute's approval requirements and the benefits to the public from the use of the devices. In addition, FDA is announcing the opportunity for interested persons to request that the agency change the classification of any of the aforementioned devices based on new information. This action implements certain statutory requirements.

DATES: Submit written or electronic comments by November 23, 2010. Submit requests for a change in classification by September 9, 2010. FDA intends that, if a final rule based on this proposed rule is issued, anyone who wishes to continue to market the device will need to submit a PMA within 90 days of the effective date of the final rule. Please see section XIII of this document for the effective date of any final rule that may publish based on this proposal.

ADDRESSES: You may submit comments, identified by Docket No. FDA–2010–N–0412 and/or RIN number 0910–AG51, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

• Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

Written Submissions

Submit written submissions in the following ways:

• FAX: 301–827–6870.

• Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the agency name and Docket Number and Regulatory Information Number (RIN) for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided. For additional information on submitting comments, see the "Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Michael Ryan, Food and Drug Administration, Center for Devices and Radiological Health, 10903 New Hampshire Ave., Bldg. 66, rm. 1615, Silver Spring, MD 20993, 301–796–6283.

SUPPLEMENTARY INFORMATION:

I. Background—Regulatory Authorities

The Federal Food, Drug, and Cosmetic Act (the act), as amended by the Medical Device Amendments of 1976 (the 1976 amendments) (Public Law 94–295), the Safe Medical Devices Act of 1990 (the SMDA) (Public Law 101–629), and the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Public Law 105–115), the Medical Device User Fee and Modernization Act of 2002 (Public Law 107–250), the Medical Devices Technical Corrections Act (Public Law 108–214), and the Food and Drug Administration Amendments Act of 2007 (Public Law 110–85), establish a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the act (21 U.S.C. 360c) established three categories (classes) of devices, reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are: Class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513 of the act, devices that were in commercial distribution before the enactment of the 1976 amendments, May 28, 1976 (generally referred to as preamendments devices), are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976 (generally referred to as postamendments devices), are automatically classified by section 513(f) of the act into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval unless, and until, the device is reclassified into class I or II or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and 21 CFR part 807.

A preamendments device that has been classified into class III may be marketed by means of premarket notification procedures (510(k) process) without submission of a premarket approval application (PMA) until FDA promulgates a final regulation under section 515(b) of the act (21 U.S.C. 360e(b)) requiring premarket approval. Section 515(b)(1) of the act (21 U.S.C. 360e(b)(1)) establishes the requirement that a preamendments device that FDA has classified into class III is subject to premarket approval. A preamendments class III device may be commercially distributed without an approved PMA or a notice of completion of a PDP until 90 days after FDA issues a final rule requiring premarket approval for the device, or 30 months after final classification of the device under section 513 of the act, whichever is later. Also, a preamendments device subject to the rulemaking procedure under section 515(b) of the act is not required to have an approved investigational device exemption (IDE) (see 21 CFR part 812) contemporaneous with its interstate distribution until the date identified by FDA in the final rule requiring the submission of a PMA for the device. At that time, an IDE is required only if a PMA has not been submitted or a PDP completed.

Section 515(b)(2)(A) of the act provides that a proceeding to issue a final rule to require premarket approval shall be initiated by publication of a notice of proposed rulemaking containing: (1) The regulation; (2) proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to have an approved PMA or a declared completed PDP and the benefit to the public from the use of the device; (3) an opportunity for the submission of comments on the proposed rule and the proposed findings; and (4) an opportunity to request a change in the classification of the device based on new information relevant to the classification of the device.

Section 515(b)(2)(B) of the act provides that if FDA receives a request for a change in the classification of the device within 15 days of the publication of the notice, FDA shall, within 180 days of the publication of the notice, consult with the appropriate FDA advisory committee and publish a notice denying the request for change in reclassification or announcing its intent to initiate a proceeding to reclassify the device under section 513(e) of the act. Section 515(b)(3) of the act provides that FDA shall, after the close of the comment period on the proposed rule and consideration of any comments received, issue a final rule to require premarket approval or publish a document terminating the proceeding together with the reasons for such termination. If FDA terminates the proceeding, FDA is required to initiate reclassification of the device under section 513(e) of the act, unless the reason for termination is that the device is a banned device under section 516 of the act (21 U.S.C. 360f).

If a proposed rule to require premarket approval for a preamendments device is finalized, section 501(f)(2)(B) of the act (21 U.S.C. 351(f)(2)(B)) requires that a PMA or notice of completion of a PDP for any such device be filed within 90 days of the date of issuance of the final rule or 30 months after the final classification of the device under section 513 of the act, whichever is later. If a PMA or notice of completion of a PDP is not filed by the later of the two dates, commercial distribution of the device is required to cease since the device would

be deemed adulterated under section 501(f) of the act.

The device may, however, be distributed for investigational use if the manufacturer, importer, or other sponsor of the device complies with the IDE regulations. If a PMA or notice of completion of a PDP is not filed by the later of the two dates, and the device does not comply with IDE regulations, the device is deemed to be adulterated within the meaning of section 501(f)(1)(A) of the act, and subject to seizure and condemnation under section 304 of the act (21 U.S.C. 334) if its distribution continues. Shipment of devices in interstate commerce will be subject to injunction under section 302 of the act (21 U.S.C. 332), and the individuals responsible for such shipment will be subject to prosecution under section 303 of the act (21 U.S.C. 333). In the past, FDA has requested that manufacturers take action to prevent the further use of devices for which no PMA or PDP has been filed and may determine that such a request is appropriate for the class III devices that are the subjects of this regulation.

The act does not permit an extension of the 90-day period after issuance of a final rule within which an application or a notice is required to be filed. The House Report on the 1976 amendments states that: [t]he thirty month grace period afforded after classification of a device into class III * * * is sufficient time for manufacturers and importers to develop the data and conduct the investigations necessary to support an application for premarket approval (H. Rept. 94–853, 94th Cong., 2d sess. 42 (1976)).

The SMDA added section 515(i) to the act requiring FDA to review the classification of preamendments class III devices for which no final rule requiring the submission of PMAs has been issued, and to determine whether or not each device should be reclassified into class I or class II or remain in class III. For devices remaining in class III, the SMDA directed FDA to develop a schedule for issuing regulations to require premarket approval. The SMDA does not, however, prevent FDA from proceeding immediately to rulemaking under section 515(b) of the act on specific devices, in the interest of public health, independent of the procedures of section 515(i). Proceeding directly to rulemaking under section 515(b) of the act is consistent with Congress' objective in enacting section 515(i), i.e., that preamendments class III devices for which PMAs have not been previously required either be reclassified to class I or class II or be subject to the requirements of premarket approval. Moreover, in this proposal, interested persons are being offered the opportunity to request reclassification of any of the devices.

II. Dates New Requirements Apply

In accordance with section 515(b) of the act, FDA is proposing to require that a PMA or a notice of completion of a PDP be filed with the agency for class III devices within 90 days after issuance of any final rule based on this proposal. An applicant whose device was legally in commercial distribution before May 28, 1976, or whose device has been found to be substantially equivalent to such a device, will be permitted to continue marketing such class III devices during FDA's review of the PMA or notice of completion of the PDP. FDA intends to review any PMA for the device within 180 days, and any notice of completion of a PDP for the device within 90 days of the date of filing. FDA cautions that under section 515(d)(1)(B)(i) of the act, the agency may not enter into an agreement to extend the review period for a PMA beyond 180 days unless the agency finds that "the continued availability of the device is necessary for the public health."

FDA intends that under § 812.2(d) (21 CFR 812.2(d)), the preamble to any final rule based on this proposal will state that, as of the date on which the filing of a PMA or a notice of completion of a PDP is required to be filed, the exemptions from the requirements of the IDE regulations for preamendments class III devices in § 812.2(c)(1) and (c)(2) will cease to apply to any device that is: (1) Not legally on the market on or before that date, or (2) legally on the market on or before that date but for which a PMA or notice of completion of a PDP is not filed by that date, or for which PMA approval has been denied or withdrawn.

If a PMA or notice of completion of a PDP for a class III device is not filed with FDA within 90 days after the date of issuance of any final rule requiring premarket approval for the device, commercial distribution of the device must cease. The device may be distributed for investigational use only if the requirements of the IDE regulations are met. The requirements for significant risk devices include submitting an IDE application to FDA for its review and approval. An approved IDE is required to be in effect before an investigation of the device may be initiated or continued under 21 CFR 812.30. FDA, therefore, cautions that IDE applications should be submitted to FDA at least 30 days before the end of the 90-day period after the issuance of the final rule to avoid interrupting investigations.

III. Proposed Findings With Respect to Risks and Benefits

As required by section 515(b) of the act, FDA is publishing its proposed findings regarding: (1) The degree of risk of illness or injury designed to be eliminated or reduced by requiring that these devices have an approved PMA or a declared completed PDP, and (2) the benefits to the public from the use of the devices.

These findings are based on the reports and recommendations of the advisory committees (panels) for the classification of these devices along with information submitted in response to the 515(i) order (74 FR 16214, April 9, 2009) and any additional information that FDA has encountered. Additional information regarding the risks as well as classification associated with these device types can be found in the following proposed and final rules published in the **Federal Register** on these dates: Cardiovascular devices, 21 CFR part 870 (44 FR 13284, March 9, 1979; 45 FR 7904, February 5, 1980; and 52 FR 17736, May 11, 1987); classification of female condoms (64 FR 31164, June 10, 1999; and 65 FR 31454, May 18, 2000); and classification of transilluminators (diaphanoscopes or lightscanners) for breast evaluation (60 FR 3168, January 13, 1995; and 60 FR 36639, July 18, 1995).

IV. Devices Subject to This Proposal

A. Ventricular bypass (assist) device (21 CFR 870.3545)

1. Identification

A ventricular bypass (assist) device is a device that assists the left or right ventricle in maintaining circulatory blood flow. The device is either totally or partially implanted in the body.

2. Summary of Data

The Cardiovascular Devices Panel recommended that ventricular bypass (assist) devices be classified into class III because the device is an implant used in a life-supporting situation. The panel indicated that general controls alone would not be sufficient and that there was not enough information to establish a performance standard. Consequently, the panel believed that premarket approval is necessary to assure the safety and effectiveness of the device. FDA continues to agree with the panel's recommendation.

3. Risks to Health

a. *Thromboembolism*—inadequate blood compatibility of the materials

used in this device and inadequate surface finish and cleanliness could lead to potentially debilitating or fatal thromboembolism.

b. *Excessive hemolysis*—poor design of the hemodynamic characteristics of the device can lead to excess hemolysis.

c. *Inability to support life*—inaccurate pressure or flow control or improper synchronization can impede the ability of the device to support life.

d. *Cardiac arrhythmias or electrical shock*—excessive electrical leakage current can disturb the normal electrophysiology of the heart, leading to the onset of cardiac arrhythmias. Electrical leakage can also cause electrical shock to the physician during placement or use of the device and this could lead to iatrogenic complications.

e. *Interference with other organs*—because of the device's size and the location of its implantation, the device may interfere with the function of other organs.

f. *Damage to blood vessels*—the mechanical design of the attachments is associated with the possibility of damage to blood vessels at the attachment points.

g. *Inability to maintain long-term support*—low fatigue life of the materials used or poor quality control in construction can lead to premature breakdown of the device.

B. Pacemaker repair or replacement material (21 CFR 870.3710)

1. Identification

A pacemaker repair or replacement material is an adhesive, a sealant, a screw, a crimp, or any other material used to repair a pacemaker lead or to reconnect a pacemaker lead to a pacemaker pulse generator.

2. Summary of Data

The Cardiovascular Devices Classification Panel recommended that pacemaker repair or replacement material be classified into class III because of the potential hazards associated with the inherent properties of the device, the life-supporting function of this implanted device, and its personal knowledge of, and experience with, the device. FDA agreed and continues to agree with the panel's recommendation. The agency notes that the device has fallen into disuse and that the published data are not adequate to demonstrate the safety and effectiveness of the device.

3. Risks to Health

a. *Tissue damage*—If the biocompatibility of the materials used in this device is inadequate, damage to the surrounding tissue may result.

b. *Loss of pacing function*—Failure to properly repair or reconnect a pacemaker lead could result in loss of pacing function. The need to repair/reconnect the lead may be due to, among other causes, an intrusion of fluid into the pacemaker connection, an improper electrical connection to the pacemaker circuitry, or poor electrical insulation of the lead body. If the lead is not repaired or reconnected, the electrical path from the pulse generator to the lead may be interrupted, resulting in a loss of critical and potentially life-sustaining pacing function.

C. Female condom (21 CFR 884.5330)

1. Identification

A female condom is a sheath-like device that lines the vaginal wall and is inserted into the vagina prior to the initiation of coitus. It is indicated for contraceptive and prophylactic (preventing the transmission of sexually transmitted diseases (STDs)) purposes.

2. Summary of Data

The Obstetrics-Gynecology Devices Panel recommended that the female condom device be classified into Class III (premarket approval). The panel gave reasons for recommendation, e.g., that no published data could be found that demonstrate the safety and effectiveness of the device. The panel based the recommendation on information provided by FDA and on the panel members' personal knowledge of and experience with contraceptive methods of birth control, including barrier-type contraceptives. Additionally, the panel believed that general controls and special controls would not provide reasonable assurance of the safety and effectiveness of the devices. FDA has not received any new data to affect the classification. FDA agreed and continues to agree with the panel's recommendation. The agency notes that the device has fallen into disuse and that the published data are not adequate to demonstrate the safety and effectiveness of the device.

3. Risks to Health

a. *Pregnancy*—Leakage, breakage, dislodgement, or displacement of the device during sexual intercourse could result in the occurrence of an undesired pregnancy.

b. *Transmission of infection (disease)*—If the device fails due to leakage, breakage, dislodgement, or displacement, contact with infected semen or vaginal secretions or mucosa could result in the transmission of STD's, including human immunodeficiency virus (HIV) (causing acquired immunodeficiency syndrome (AIDS)).

c. *Adverse tissue reaction*—Unless the biocompatibility of materials and substances compromising the device are tested, local tissue irritation and sensitization or systemic toxicity could occur when the vaginal pouch contacts the vaginal wall, cervical mucosa, and the penis.

d. *Ulceration and other physical trauma*—Depending on the design of the device, use of the female condom may cause abrasions, lacerations, bleeding, or other adverse effects to the vaginal or penile tissue.

D. Transilluminator for breast evaluation (21 CFR 892.1990)

1. Identification

A transilluminator, also known as a diaphanoscope or lightscanner, is an electrically powered device that uses low intensity emissions of visible light and near-infrared radiation (approximately 700 to 1050 nanometers (nm)), transmitted through the breast, to visualize translucent tissue for the diagnosis of cancer, other conditions, diseases, or abnormalities.

2. Summary of Data

The Obstetrics and Gynecology Devices Panel recommended that transilluminator devices for breast evaluation be classified into class III and subject to premarket approval to provide reasonable assurance of the safety and effectiveness of the device. The panel concluded that there were no published studies or clinical data demonstrating the safety and effectiveness of the device. The panel indicated that the device presents a potential unreasonable risk of illness or injury to the patient if the clinician relies on the device and that although the device's illumination level, wavelength, and image quality can be controlled through tests and specifications, insufficient evidence exists to determine that special controls can be established to provide reasonable assurance of the safety and effectiveness of the device for its intended use. FDA has not received any new data to affect the classification. FDA agreed and continues to agree with the panel's recommendation. The agency notes that the device has fallen into disuse and that the published data are not adequate to demonstrate the safety and effectiveness of the device.

3. Risks to Health

a. *Missed or delayed diagnosis*—As a result of the questionable device performance of breast transilluminators, missed or delayed diagnosis are the

most catastrophic risks to health for a woman. These devices depend on the users' visual interpretation of their own breast illumination. One scenario may result when a woman incorrectly interprets her transillumination as a tumor and suffers the ensuing anxiety from her belief that she has a cancer. Another scenario may result when a woman incorrectly dismisses the findings of her transillumination and then suffers from a missed diagnosis or delayed diagnosis and delayed treatment. Ultimately, missed or delayed diagnoses could result in the need for more aggressive treatment and a potentially higher risk of death.

b. *Electrical shock*—If a breast transilluminator is not designed properly, the user may receive an electrical shock.

c. *Optical radiation*—Prolonged gazing directly into the light of a breast illuminator while engaged in "bright light mode" may result in retinal damage.

V. PMA Requirements

A PMA for these devices must include the information required by section 515(c)(1) of the act. Such a PMA should also include a detailed discussion of the risks identified previously, as well as a discussion of the effectiveness of the device for which premarket approval is sought. In addition, a PMA must include all data and information on: (1) Any risks known, or that should be reasonably known, to the applicant that have not been identified in this document; (2) the effectiveness of the device that is the subject of the application; and (3) full reports of all preclinical and clinical information from investigations on the safety and effectiveness of the device for which premarket approval is sought.

A PMA must include valid scientific evidence to demonstrate reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 CFR 860.7(c)(2)). Valid scientific evidence is "evidence from well-controlled investigations, partially controlled studies, studies and objective trials without matched controls, well-documented case histories conducted by qualified experts, and reports of significant human experience with a marketed device, from which it can fairly and responsibly be concluded by qualified experts that there is reasonable assurance of the safety and effectiveness of a device under its conditions of use. * * * Isolated case reports, random experience, reports lacking sufficient details to permit scientific evaluation, and unsubstantiated opinions are not regarded as valid scientific evidence to show safety or effectiveness." (21 CFR 860.7(c)(2)).

VI. PDP Requirements

A PDP for any of these devices may be submitted instead of a PMA, and must follow the procedures outlined in section 515(f) of the act. A PDP must provide: (1) A description of the device, (2) preclinical trial information (if any), (3) clinical trial information (if any), (4) a description of the manufacturing and processing of the devices, (5) the labeling of the device, and (6) all other relevant information about the device. In addition, the PDP must include progress reports and records of the trials conducted under the protocol on the safety and effectiveness of the device for which the completed PDP is sought.

VII. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**), either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

VIII. Opportunity To Request a Change in Classification

Before requiring the filing of a PMA or notice of completion of a PDP for a device, FDA is required by section 515(b)(2)(A)(i) through (b)(2)(A)(iv) of the act and 21 CFR 860.132 to provide an opportunity for interested persons to request a change in the classification of the device based on new information relevant to the classification. Any proceeding to reclassify the device will be under the authority of section 513(e) of the act.

A request for a change in the classification of these devices is to be in the form of a reclassification petition containing the information required by 21 CFR 860.123, including new information relevant to the classification of the device.

The agency advises that to ensure timely filing of any such petition, any request should be submitted to the Division of Dockets Management (see **ADDRESSES**) and not to the address provided in § 860.123(b)(1). If a timely request for a change in the classification of these devices is submitted, the agency will, within 180 days after receipt of the petition, and after consultation with the appropriate FDA resources, publish an order in the **Federal Register** that either denies the request or gives notice of its intent to initiate a change in the classification of the device in accordance with section 513(e) of the act and 21 CFR 860.130 of the regulations.

IX. Environmental Impact

The agency has determined under 21 CFR 25.30(h) 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.

X. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is not a significant regulatory action as defined by the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because there have been no premarket submissions for these devices in the past 5 years and all of the affected devices have fallen into disuse, FDA has concluded that there is little or no interest in marketing these devices in the future. Therefore, the agency proposes to certify that the proposed rule, if issued as a final rule, would not have a significant economic impact on a substantial number of small entities. We specifically request detailed comment regarding the appropriateness of our assumptions regarding the potential economic impact of this proposed rule.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing "any rule that includes any Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year." The current threshold after adjustment for inflation is $135

million, using the most current (2009) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this proposed rule to result in any 1-year expenditure that would meet or exceed this amount.

FDA proposes to certify that this proposed rule, if issued as a final rule, would not have a significant economic impact. We base this determination on an analysis of registration and listing and other data for the affected devices. Two of the devices affected by this proposed rule, the female condom and ventricular bypass device, have never appeared in FDA's electronic registration and listing database. These devices were identified as preamendment devices, but since their classification, the agency has no record of them ever being marketed. In addition, these devices represent older technologies that have since been replaced by newer technologies, currently being marketed under a Premarket Approval Application, or PMA.

One of the affected devices, pacemaker repair and replacement material, is a material that can be used in multiple devices that was last listed in 2001 and the agency is aware of no evidence that the device has been marketed since 1991. In addition, on the increasingly rare occasions when a pacemaker is repaired today, the repair is done with materials specific to the approved device. The final affected device, the breast transilluminator, was last listed in 2007 but FDA has never cleared a 510(k) for this type of device. Although this device was listed as recently as 2007, the device was never approved or cleared for marketing. This information is summarized in table 1 of this document as follows:

TABLE 1.—SUMMARY OF ELECTRONIC REGISTRATION AND LISTING INFORMATION

Device Name	Product Code	510(k) or PMA?	Last Listed	Last Marketed	Replaced by Approved Technology?
Female Condom	OBY	No	Never Listed	1930s	Yes
Ventricular Bypass Device	OKR	No	Never Listed	No Record	Yes
Pacemaker Repair and Replacement	KFJ	No	2001	1991	Yes
Breast Transillunator	LEK	No	2007	No Record	No

Based on our review of electronic product registration and listing and other data, FDA concludes that there is currently little or no interest in marketing the affected devices and that the proposed rule would not have a significant economic impact. We specifically request detailed comment regarding the appropriateness of our assumptions regarding the potential economic impact of this proposed rule.

XI. Federalism

FDA has analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the proposed rule, if finalized, would not contain policies that would have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the agency tentatively concludes that the proposed rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

XII. Paperwork Reduction Act of 1995

This proposed rule 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 812 have been approved under OMB control number 0910–0078; 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 814, subpart B have been approved under OMB control number 0910–0231; and the collections of information under 21 CFR 801 have been approved under OMB control number 0910–0485.

XIII. Proposed Effective Date

FDA is proposing that any final rule based on this proposal become effective 12 months after the date of its publication in the **Federal Register** or at a later date if stated in the final rule.

List of Subjects 21 CFR Parts 870, 884, and 892

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR parts 870, 884, and 892 be amended as follows:

PART 870—CARDIOVASCULAR DEVICES

1. The authority citation for 21 CFR part 870 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 870.3545 is amended by revising paragraph (c) to read as follows:

§ 870.3545 Ventricular bypass (assist) device.

* * * * *

(c) *Date PMA or notice of completion of PDP is required.* A PMA or notice of completion of a PDP is required to be filed with FDA on or before [*date 90 days after date of publication of the final rule in the* **Federal Register**], for any ventricular bypass (assist) device that was in commercial distribution before May 28, 1976, or that has, on or before [*date 90 days after date of publication of the final rule in the* **Federal Register**], been found to be substantially equivalent to any ventricular bypass (assist) device that was in commercial distribution before May 28, 1976. Any other ventricular bypass (assist) device shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

3. Section 870.3710 is amended by revising paragraph (c) to read as follows:

§ 870.3710 Pacemaker repair or replacement material.

* * * * *

(c) *Date PMA or notice of completion of PDP is required.* A PMA or notice of completion of a PDP is required to be filed with FDA on or before [*date 90 days after date of publication of the*

final rule in the **Federal Register**], for any pacemaker repair or replacement material device that was in commercial distribution before May 28, 1976, or that has, on or before [*date 90 days after date of publication of the final rule in the* **Federal Register**], been found to be substantially equivalent to any pacemaker repair or replacement material device that was in commercial distribution before May 28, 1976. Any other pacemaker repair or replacement material device shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

PART 884—OBSTETRICAL AND GYNECOLOGICAL DEVICES

4. The authority citation for 21 CFR part 884 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

5. Section 884.5330 is amended by revising paragraph (c) to read as follows:

§ 884.5330 Female condom.

* * * * *

(c) *Date PMA or notice of completion of PDP is required.* A PMA or notice of completion of a PDP is required to be filed with FDA on or before [*date 90 days after date of publication of the final rule in the* **Federal Register**], for any female condom that was in commercial distribution before May 28, 1976, or that has, on or before [*date 90 days after date of publication of the final rule in the* **Federal Register**], been found to be substantially equivalent to any female condom that was in commercial distribution before May 28, 1976. Any other female condom shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

PART 892—RADIOLOGY DEVICES

6. The authority citation for 21 CFR part 892 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

7. Section 892.1990 is amended by revising paragraph (c) to read as follows:

§ 892.1990 Transilluminator for breast evaluation.

* * * * *

(c) *Date PMA or notice of completion of PDP is required.* A PMA or notice of completion of a PDP is required to be filed with FDA on or before [*date 90 days after date of publication of the final rule in the* **Federal Register**], for any transilluminator for breast evaluation that was in commercial distribution before May 28, 1976, or that has, on or before [*date 90 days after date of publication of the final rule in the* **Federal Register**], been found to be substantially equivalent to any transilluminator for breast evaluation that was in commercial distribution before May 28, 1976. Any other transilluminator for breast evaluation shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

Dated: August 19, 2010.

David Dorsey,

Acting Deputy Commissioner for Policy, Planning and Budget.

[FR Doc. 2010–21142 Filed 8–24–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 253

[Docket No. 0908061221–91225–01]

RIN 0648–AY16

Merchant Marine Act and Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fishing Vessel, Fishing Facility and Individual Fishing Quota Lending Program Regulations; Correction

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

ACTION: Proposed rule, correction and reopening of comment period.

SUMMARY: NMFS published a proposed rule on May 5, 2010, amending the Fisheries Finance Program's programmatic regulations. The proposed rule was published with an incorrect Regulatory Identification Number (RIN) in the **ADDRESSES** section. Members of the public using the incorrect RIN may have had difficulty posting comments at *http://www.regulations.gov.* In order to allow anyone adversely affected by the mistake to submit comments, NMFS reopens the comment period and requests additional comments for two weeks.

DATES: NMFS invites the public to comment on the proposed rule published at 75 FR 24549. Comments must be submitted in writing on or before September 8, 2010.

ADDRESSES: You may submit comments on the proposed rule, identified by RIN 0648–AY16 by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal at *http://www.regulations.gov.*
- *Fax:* (301) 713–1306, Attn: Earl Bennett.
- *Mail:* Earl Bennett, Acting Chief, Financial Services Division, NMFS, Attn: F/MB5, 1315 East-West Highway, SSMC3, Silver Spring, MD 20910.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to *earl.bennett@noaa.gov* or *david.rostker@omb.eop.gov* or faxed to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Earl Bennett, (301) 713–2390 x 187, *earl.bennett@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Need for Correction

On May 5, 2010, NMFS published a proposed rule at 75 FR 24549, which can be viewed at *http://www.fakr.noaa.gov/prules/75fr24549.pdf.*

The **ADDRESSES** section of the proposed rule contained an incorrect RIN. Although members of the public submitting comments by mail, fax and e-mail to the addresses listed in the proposed rule would have been unaffected, those attempting to post comments at *http://www.regulations.gov* may have been hindered from posting comments because of this error. In order to allow anyone adversely affected by the mistake the opportunity to comment, NMFS will take comments for an additional two weeks.

The new sentence in the **ADDRESSES** section of column one in 75 FR 24550 should read: "You may submit comments, identified by 0648–AY16, by any one of the following methods:"

Dated: August 20, 2010.

Samuel D. Rauch III,

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

[FR Doc. 2010–21135 Filed 8–24–10; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 75, No. 164
Wednesday, August 25, 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

Animal and Plant Health Inspection Service

[Docket No. APHIS-2010-0074]

Notice of Availability of Pest Risk Analyses for the Importation of Fresh Celery, Arugula, and Spinach From Colombia

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that we have prepared three pest risk analyses that evaluate, respectively, the risks associated with the importation into the continental United States of fresh celery, arugula, and spinach from Colombia. Based on these analyses, we believe that the application of one or more designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh celery, arugula, and spinach from Colombia. We are making these pest risk analyses available to the public for review and comment.

DATES: We will consider all comments that we receive on or before October 25, 2010.

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to (*http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0074*) to submit or view comments and to view supporting and related materials available electronically.
- Postal Mail/Commercial Delivery: Please send one copy of your comment to Docket No. APHIS-2010-0074, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2010-0074.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at (*http://www.aphis.usda.gov*).

FOR FURTHER INFORMATION CONTACT: Ms. Dorothy C. Wayson, Senior Regulatory Coordination Specialist, RPM, PHP, PPQ, APHIS, 4700 River Road Unit 141, Riverdale, MD 20737-1236; (301) 734-0772.

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in "Subpart—Fruits and Vegetables" (7 CFR 319.56-1 through 319.56-50, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into and spread within the United States.

Section 319.56-4 contains a performance-based process for approving the importation of commodities that, based on the findings of a pest-risk analysis, can be safely imported subject to one or more of the designated phytosanitary measures listed in paragraph (b) of that section. These measures are:

- The fruits or vegetables are subject to inspection upon arrival in the United States and comply with all applicable provisions of § 319.56-3;
- The fruits or vegetables are imported from a pest-free area in the country of origin that meets the requirements of § 319.56-5 for freedom from that pest and are accompanied by a phytosanitary certificate stating that the fruits or vegetables originated in a pest-free area in the country of origin;
- The fruits or vegetables are treated in accordance with 7 CFR part 305;
- The fruits or vegetables are inspected in the country of origin by an inspector or an official of the national plant protection organization of the exporting country, and have been found free of one or more specific quarantine pests identified by the risk assessment as likely to follow the import pathway; and/or
- The fruits or vegetables are a commercial consignment.

APHIS received a request from the Government of Colombia to allow the importation of fresh celery, arugula, and spinach from Colombia into the continental United States. We have completed a pest risk assessment for each of those commodities to identify pests of quarantine significance that could follow the pathway of importation into the United States and, based on those pest risk assessments, have prepared three risk management documents to identify phytosanitary measures that could be applied to fresh celery, arugula, and spinach from Colombia to mitigate the pest risk. We have concluded that fresh celery, arugula, and spinach can be safely imported into the continental United States from Colombia using one or more of the five designated phytosanitary measures listed in § 319.56-4(b). Therefore, in accordance with § 319.56-4(c), we are announcing the availability of our pest risk analyses for public review and comment. The pest risk analyses may be viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for a link to Regulations.gov and information on the location and hours of the reading room). You may request paper copies of the pest risk analyses by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the subject of the pest risk analysis you wish to review when requesting copies.

After reviewing any comments we receive, we will announce our decision regarding the import status of fresh celery, arugula, and spinach from Colombia in a subsequent notice. If the overall conclusions of the analyses and the Administrator's determination of risk remain unchanged following our consideration of the comments, then we will begin issuing permits for importation of fresh celery, arugula, and spinach from Colombia into the continental United States subject to the requirements specified in the risk management documents.

Authority: 7 U.S.C. 450, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 18th day of August 2010.

Kevin Shea

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2010–21136 Filed 8–24–10; 8:45 am]

BILLING CODE 3410–34–S

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Funding Availability: Rural Development Voucher Program

AGENCY: Rural Housing Service, USDA.

ACTION: Notice; Correction.

SUMMARY: The Rural Housing Service published a document in the **Federal Register** on April 14, 2010, announcing the funding available for the Rural Development Voucher Program. A correction to the document is needed to clarify what documentation is required for proof of citizenship and to correct the median income hyperlink.

FOR FURTHER INFORMATION CONTACT: Stephanie B.M. White, Director, Multi-Family Housing Portfolio Management Division, Rural Development, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 0782, Washington, DC 20250–0782, telephone (202) 720–1615. Persons with hearing or speech impairments may access this number via TDD by calling the toll-free Federal Information Relay Service at 800–877–8339.

Correction

In the **Federal Register** of Wednesday, April 14, 2010, Vol. 75, No. 71, page 19354 in the second column, is corrected to read: (c) As required by section 214 of the Housing and Community Development Act of 1980 [42 U.S.C. § 1436a] the tenant must be a United States citizen, United States non-citizen national or qualified alien. (1) For each family member who contends that he or she is a U.S. citizen or a noncitizen with eligible immigration status, the family must submit to Rural Development a written declaration, signed under penalty of perjury, by which the family member declares whether he or she is a U.S. citizen or a noncitizen with eligible immigration status. (i) For each adult, the declaration must be signed by the adult. (ii) For each child, the declaration must be signed by an adult residing in the assisted dwelling unit who is responsible for the child. Each family member, regardless of age, must submit the following evidence to the responsible entity. (1) For citizens, the evidence consists of a signed declaration of U.S. citizenship. Rural Development may request verification of the declaration by requiring presentation of a United States passport, social security card, or other appropriate documentation. (2) For noncitizens who are 62 years of age or older, the evidence consists of:

(i) A signed declaration of eligible immigration status; and (ii) Proof of age document. (3) For all other noncitizens, the evidence consists of: (i) A signed declaration of eligible immigration status; (ii) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service (INS) that contains the individual's alien admission number or alien file number; and (iii) a signed verification consent form, which provides that evidence of eligible immigration status may be released to Rural Development and INS for purposes of verifying the immigration status of the individual. Rural Development shall provide a reasonable opportunity, not to exceed 30 days, to submit evidence indicating a satisfactory immigration status, or to appeal to the Immigration and Naturalization Service the verification determination of the Immigration and Naturalization Service; and;

Correction

In the **Federal Register** of Wednesday, April 14, 2010, Vol. 75, No. 71, page 19354 in the third column is updated to read: (d) The family must be a low-income family on the date of the prepayment or foreclosure. A low-income family is a family whose annual income does not exceed 80 percent of the family median income for the area as defined by HUD. HUD's definition of median income can be found at *http://www.huduser.org/portal/datasets/il/il10/index_mfi.html.*

Dated: August 17, 2010.

Kathy McEntee,

Acting Administrator, Housing and Community Facilities Programs.

[FR Doc. 2010–21072 Filed 8–24–10; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Meeting; Siskiyou Resource Advisory Committee Meeting at New Location

SUMMARY: The Siskiyou County Resource Advisory Committee (RAC) will hold its last two meetings in 2010 at a new location.

DATES: The meetings will be held on September 20 and October 18, 2010 and will begin at 4 p.m.

ADDRESSES: The meeting will be held at the Klamath National Forest Supervisor's Office, Conference Room, 1312 Fairlane Road, Yreka, CA.

FOR FURTHER INFORMATION CONTACT: Kerry Greene, Committee Coordinator, USDA, Klamath National Forest, Supervisor's Office, 1312 Fairlane Road, Yreka, CA 96097. (530) 841–4484; e-mail *kggreene@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The agenda includes project updates and financial status, and presentation and review of new project proposals to be considered by the RAC. The meeting is open to the public. Opportunity for public comment will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: August 18, 2010.

Patricia A. Grantham,

Designated Federal Officer.

[FR Doc. 2010–21140 Filed 8–24–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Sierra County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Nevada County and Placer County Resource Advisory Committee (RAC) will meet in Truckee, California. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L 110–343) and in compliance with the Federal Advisory Committee Act. The purpose of the meeting is to discuss projects submitted for funding and the expenditure of Title II funds benefiting National Forest System lands in Nevada and Placer Counties.

DATES: The meeting will be held Friday, August 27, 2010 at 10 a.m.

ADDRESSES: The meeting will be held at the Truckee Ranger Station,

10342 Stockrest Springs Rd., Truckee, CA.

FOR FURTHER INFORMATION CONTACT: Ann Westling, Committee Coordinator, USDA, Tahoe National Forest, 631 Coyote St, Nevada City, CA 95959, (530) 478–6205, *E-mail: awestling@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Welcome and Introductions; (2) Review of RAC Operating Guidelines; (3) Discussion of Proposed Projects; (4) Vote on Proposed Projects; and (5) Comments from the Public. The meeting is open to the public and the public will have an opportunity to comment at the meeting.

Dated: August 17, 2010.

Tom Quinn,

Forest Supervisor.

[FR Doc. 2010–20957 Filed 8–24–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Coconino Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Coconino Resource Advisory Committee will meet in Flagstaff, Arizona. The purpose of the meeting is for the committee members to discuss committee protocols, operating guidelines, and project proposal requirements.

DATES: The meeting will be held September 23, 2010, beginning at 1 p.m. to approximately 4 p.m.

ADDRESSES: The meeting will be held in the Ponderosa Room of the Coconino County Health Department, 2625 N. King, St., Flagstaff, Arizona 86004. Send written comments to Brady Smith. RAC Coordinator, Coconino Resource Advisory Committee, do Forest Service. USDA, 1824 5. Thompson St., Flagstaff, Arizona 86001 or electronically to *bradysmith@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Brady Smith, Coconino National Forest, (928) 527–3490.

SUPPLEMENTARY INFORMATION: Agenda items for this meeting include discussion about (1) Whether or not projects will need to be NEPA-ready; (2) Possible limits on proposals; (3) Roles and responsibilities of the Coconino RAC; (4) Meeting structure, voting processes and agendas; (5) Budget; and (6) Project solicitation. The meeting is open to the public.

Dated: August 17, 2010.

Carol Boyd,

Acting Forest Supervisor, Coconino National Forest.

[FR Doc. 2010–21066 Filed 8–24–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

MedBow-Routt Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The MedBow-Routt Resource Advisory Committee will meet in Saratoga, Wyoming. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act. The purpose of the meeting is for an update on projects proposed for funding, and selection of some projects.

DATES: The meeting will be held Sept 2, 2010, 9:30 a.m.–3:30 p.m.

ADDRESSES: The meeting will be held at the Forest Service Office, 5556 State Highway 130, Saratoga, Wyoming. Written comments should be sent to Phil Cruz, RAC DFO, 2468 Jackson Street, Laramie, Wyoming 82070. Comments may also be sent via e-mail to *pcruz@fs.fed.us,* or via facsimile to 307–745–2467.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Forest Supervisor's Office, 2468 Jackson Street, Laramie, Wyoming.

FOR FURTHER INFORMATION CONTACT: Diann Ritschard, RAC Coordinator, 925 Weiss Drive, Steamboat Springs, CO 80487, 970–870–2187, *dritschard@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The following business will be conducted: Review and discussion of projects proposed for funding, and selection of some projects. Persons who wish to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by Aug. 30, 2010 will have the opportunity to address the Committee at those sessions.

Dated: August 17, 2010.

Phil Cruz,

Acting Forest Supervisor.

[FR Doc. 2010–21087 Filed 8–24–10; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2010-0061]

Notice of Availability of a Pest Risk Analysis for Interstate Movement of Guavas From Hawaii Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that we have prepared a pest risk analysis that evaluates the risks associated with the interstate movement into the continental United States of fresh guava fruit from Hawaii. Based on that analysis, we believe that the application of one or more designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the interstate movement of guavas from Hawaii. We are making the pest risk analysis available to the public for review and comment.

DATES: We will consider all comments that we receive on or before October 25, 2010.

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to (*http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0061*) to submit or view comments and to view supporting and related materials available electronically.
- Postal Mail/Commercial Delivery: Please send one copy of your comment to Docket No. APHIS-2010-0061, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your

comment refers to Docket No. APHIS-2010-0061.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at (*http://www.aphis.usda.gov*).

FOR FURTHER INFORMATION CONTACT: Mr. David B. Lamb, Import Specialist, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1231; (301) 734-0627.

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in "Subpart—Regulated Articles From Hawaii and the Territories" (7 CFR 318.13-1 through 318.13-26, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture prohibits or restricts the interstate movement of fruits and vegetables into the United States from Hawaii, Puerto Rico, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands to prevent plant pests and noxious weeds from being introduced into and spread within the continental United States. (The continental United States is defined in § 318.13-2 of the regulations as the 48 contiguous States, Alaska, and the District of Columbia.)

Section 318.13-4 contains a performance-based process for approving the interstate movement of commodities that, based on the findings of a pest risk analysis, can be safely imported subject to one or more of the designated phytosanitary measures listed in paragraph (b) of that section. These measures are:

- The fruits and vegetables are inspected in the State of origin or in the first State of arrival;
- The fruits and vegetables originated from a pest-free area in the State of origin and the grower from which the fruit or vegetable originated has entered into a compliance agreement with the Administrator;
- The fruits and vegetables are treated in accordance with 7 CFR part 305 and the treatment is certified by an inspector;
- The fruits and vegetables articles are inspected and certified in the State of origin by an inspector and have been found free of one or more specific quarantine pests identified by risk analysis as likely to follow the pathway;
- The fruits and vegetables are moved as commercial consignments only; and/or
- The fruits and vegetables may be distributed only within a defined area and the boxes or containers in which the fruits or vegetables are distributed must be marked to indicate the applicable distribution restrictions.

APHIS received a request from the Hawaii Department of Agriculture to allow the interstate movement of fresh guava fruit from Hawaii to the continental United States. We have completed a pest list to identify pests of quarantine significance that could follow the pathway of interstate movement into the continental United States and, based on that pest list, have prepared a risk management analysis to identify phytosanitary measures that could be applied to the commodity to mitigate the pest risk. We have concluded that guavas can be safely moved from Hawaii to the continental United States using one or more of the six designated phytosanitary measures listed in § 318.13-4(b). Therefore, in accordance with § 318.13-4(c), we are announcing the availability of our pest risk analysis for public review and comment. The pest risk analysis may be viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for instructions for accessing Regulations.gov and information on the location and hours of the reading room). You may request paper copies of the pest risk analysis by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the subject of the pest risk analysis when requesting copies.

After reviewing the comments we receive, we will announce our decision regarding the interstate movement of guavas from Hawaii to the continental United States in a subsequent notice. If the overall conclusions of the analysis and the Administrator's determination of risk remain unchanged following our consideration of the comments, then we will begin allowing the interstate movement of guavas from Hawaii to the continental United States subject to the requirements specified in the risk management document.

Authority: 7 U.S.C. 7701-7772 and 7781-7786; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 18th day of August 2010.

Kevin Shea

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2010–21129 Filed 8–24–10: 8:45 am]

BILLING CODE 3410–34–S

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2010-0059]

Notice of Availability of a Treatment Evaluation Document

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that we have determined that it is necessary to revise a treatment schedule in the Plant Protection and Quarantine Treatment Manual and to retain the current treatment schedule with a different treatment number. We have prepared a treatment evaluation document that discusses the existing treatment schedule, describes the new treatment schedule, and explains why these change are necessary. We are making the treatment evaluation document available to the public for review and comment.

DATES: We will consider all comments that we receive on or before **October 25, 2010**.

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to (*http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0059*) to submit or view comments and to view supporting and related materials available electronically.
- Postal Mail/Commercial Delivery: Please send one copy of your comment to Docket No. APHIS-2010-0059, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2010-0059.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you,

please call (202) 690-2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at (*http://www.aphis.usda.gov*).

FOR FURTHER INFORMATION CONTACT: Dr. Inder P. S. Gadh, Senior Risk Manager–Treatments, Regulations, Permits, and Manuals, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1236; (301) 734-8758.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR chapter III are intended, among other things, to prevent the introduction or dissemination of plant pests and noxious weeds into or within the United States. Under the regulations, certain plants, fruits, vegetables, and other articles must be treated before they may be moved into the United States or interstate. The phytosanitary treatments regulations contained in part 305 of 7 CFR chapter III (referred to below as the regulations) set out standards for treatments required in parts 301, 318, and 319 of 7 CFR chapter III for fruits, vegetables, and other articles.

In § 305.2, paragraph (b) states that approved treatment schedules are set out in the Plant Protection and Quarantine (PPQ) Treatment Manual.[a] Section 305.3 sets out a process for adding, revising, or removing treatment schedules in the PPQ Treatment Manual. In that section, paragraph (a) sets out the process for adding, revising, or removing treatment schedules when there is no immediate need to make a change. The circumstances in which an immediate need exists are described in § 305.3(b)(1).

In accordance with § 305.3(a)(1), we are providing notice that we have determined that it is necessary to revise treatment schedule T314-a, which provides a heat treatment schedule for ash logs, including firewood, and all hardwood firewood that are moved from emerald ash borer quarantined areas. We have also determined that it is necessary to retain the current T314-a as a general treatment for various wood pests (rather than just emerald ash borer); we would redesignate this treatment schedule as T314-c in the Treatment Manual.

The reasons for these changes are described in a treatment evaluation document we have prepared to support this action. The treatment evaluation document may be viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for instructions for accessing Regulations.gov and information on the location and hours of the reading room). You may request paper copies of the treatment evaluation document by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the subject of the treatment evaluation document when requesting copies.

After reviewing the comments we receive, we will announce our decision regarding the changes to the Treatment Manual that are described in the treatment evaluation document in a subsequent notice. If our determination that it is necessary to revise T314-a and add a new T314–c remains unchanged following our consideration of the comments, then we will make available a new version of the PPQ Treatment Manual that reflects the revision of T314-a and the addition of T314-c.

Authority: 7 U.S.C. 7701-7772 and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 18th day of August 2010.

Kevin Shea

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2010–21131 Filed 8–24–10; 8:45 am]

BILLING CODE 3410–34–S

[a] The Treatment Manual is available on the Internet at (*http://www.aphis.usda.gov/import_export/plants/manuals/index.shtml*) or by contacting the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Manuals Unit, 92 Thomas Johnson Drive, Suite 200, Frederick, MD 21702.

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Alaska Region Amendment 80 Permits and Reports.

OMB Control Number: 0648–0565.

Form Number(s): NA.

Type of Request: Regular submission (extension of a currently approved information collection).

Number of Respondents: 38.

Average Hours per Response: Applications for cooperative quota share, for cooperative and cooperative quota permit, and for limited access fishery permit, 2 hours; applications to transfer quota share and cooperative quota, 2 hours; annual cooperative report, 25 hours; appeals, 4 hours.

Burden Hours: 155.

Needs and Uses: This request is for extension of a currently approved information collection. Amendment 80 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP), primarily allocates BSAI non-pollock trawl groundfish fisheries among fishing sectors and facilitates the formation of harvesting cooperatives in the head-and-gut trawl catcher/processor sector. Sector allocations and associated cooperatives allow participants to focus less on harvest rate maximization and more on optimizing their harvest. This, in turn, allows a reduction in unwanted incidental catch, improved retention, improved utilization, and improved economic health of the head-and-gut trawl catcher/processor sector. Amendment 80 established a limited access privilege program for the non-American Fisheries Act trawl catcher/processor sector.

The Amendment 80 permits and reports collection provides participants with a management system that allows for improved efficiency by providing an environment in which, revenues can be increased and operating costs can be reduced. Depending on the magnitude of these potential efficiency gains and the costs of bycatch reduction, increases in efficiency could be used to cover the costs of bycatch reduction measures or provide additional benefits to participants.

Licenses and vessels used to qualify for the Amendment 80 Program (either to be included in the non-AFA trawl catcher/processor sector or to be used in Amendment 80 cooperative formation) are restricted from being used outside of the Amendment 80 sector, except that any eligible vessel authorized to fish pollock under the AFA would still be authorized to fish under this statute.

Fishery participants that join a cooperative receive an exclusive harvest privilege not subject to harvest by other vessel operators; may consolidate fishing operations on a specific vessel or subset of vessels, thereby reducing monitoring and enforcement and other operational costs; and harvest fish in a more economically efficient and less wasteful manner.

Affected Public: Business or other for-profit organizations.

Frequency: Annually and on occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek,

Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov.*

Dated: August 19, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–21061 Filed 8–24–10; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Economic Analysis (BEA).

Title: Institutional Remittances to Foreign Countries.

OMB Control Number: 0608–0002.

Form Number(s): BE–40.

Type of Request: Regular submission.

Number of Respondents: 1,220.

Average Hours per Response: 1.5 hours quarterly for 103 respondents and 1.5 hours annually for 1,117 respondents.

Burden Hours: 2,294.

Needs and Uses: The Institutional Remittances to Foreign Countries Survey (Form BE–40) is used by The Bureau of Economic Analysis (BEA) for the compilation of the U.S. international transactions accounts (ITAs), which it publishes quarterly in news releases, on its Web site, and in its monthly journal, the *Survey of Current Business.* These accounts provide a statistical summary of all U.S. international transactions and, as such, are one of the major statistical products of BEA. In addition, they provide input into other U.S. economic measures and accounts, contributing particularly to the National Income and Product Accounts. The ITAs are used extensively by both government and private organizations for national and international economic policy formulation and for analytical purposes. The information collected in this survey is used to develop the "private remittances" portion of the ITAs.

The survey requests information from U.S. religious, charitable, educational, scientific, and similar organizations on transfers to foreign residents and organizations and their expenditures in foreign countries. The information is collected quarterly from organizations remitting $1 million or more each year, and annually for organizations remitting at least $100,000 but less than $1 million each year. Organizations with remittances of less than $100,000 in the year covered by the report are exempt from reporting. The survey is voluntary.

Without this information, an integral component of the ITAs would be omitted. No other Government agency collects comprehensive quarterly/annual data on institutional remittances to foreign countries.

Affected Public: Not-for-profit institutions.

Frequency: Quarterly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Paul Bugg, (202) 395–3093.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Paul Bugg, OMB Desk Officer, FAX number (202) 395–7245, or via the Internet at *pbugg@omb.eop.gov.*

Dated: August 20, 2010.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–21093 Filed 8–24–10; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Licensing of Private Remote-Sensing Space Systems.

OMB Control Number: 0648–0174.

Form Number(s): None.

Type of Request: Regular submission (extension of a currently approved information collection).

Number of Respondents: 18.

Average Hours per Response: 40 hours for the submission of a license application; 10 hours for the submission of a data protection plan; 5 hours for the submission of a plan describing how the licensee will comply with data collection restrictions; 3 hours for the submission of an operations plan for restricting collection or dissemination of imagery of Israeli territory; 3 hours for submission of a data flow diagram; 2 hours for the submission of satellite subsystems drawings; 3 hours for the submission of a final imaging system specifications document; 2 hours for the submission of a public summary for a licensed system; 2 hours for the submission of a preliminary design review; 2 hours for the submission of a critical design review; 1 hour for notification of a binding launch services contract; 1 hour for notification of completion of pre-ship review; 10 hours for the submission of a license amendment; 2 hours for the submission of a foreign agreement notification; 2 hours for the submission of spacecraft operational information submitted when a spacecraft becomes operational; 2 hours for notification of deviation in orbit or spacecraft disposition; 2 hours for notification of any operational deviation; 2 hours for notification of planned purges of information to the National Satellite Land Remote Sensing Data Archive; 3 hours for the submission of an operational quarterly report; 8 hours for an annual compliance audit; 10 hours for an annual operational audit; and 2 hours for notification of the demise of a system or a decision to discontinue system operations.

Burden Hours: 552.

Needs and Uses: NOAA has established requirements for the licensing of private operators of remote-sensing space systems. The information in applications and subsequent reports is needed to ensure compliance with the Land Remote-Sensing Policy Act of 1992 and with the national security and international obligations of the United States. The requirements are contained in 15 CFR Part 960.

Affected Public: Business or other for-profit organizations.

Frequency: Annually, quarterly and on occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by

calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov.*

Dated: August 20, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–21150 Filed 8–24–10; 8:45 am]

BILLING CODE 3510–HR–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Amendment 80 Economic Data Report (EDR) for the Catcher/Processor non-AFA Trawl Sector.

OMB Control Number: 0648–0564.

Form Number(s): None.

Type of Request: Regular submission (renewal of a currently approved information collection).

Number of Respondents: 28.

Average Hours per Response: 20.

Burden Hours: 560.

Needs and Uses: This notice is for renewal of a currently approved information collection. NMFS Alaska Region manages the groundfish fisheries in the Exclusive Economic Zone under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). The North Pacific Fishery Management Council (Council) prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (MSA). Amendment 80 to the FMP primarily allocated several Bering Sea and Aleutian Islands Management Area non-pollock trawl groundfish fisheries among fishing sectors, and facilitated the formation of harvesting cooperatives in the catcher/processor sector of the non-American Fisheries Act (non-AFA) Trawl Catcher/processor Cooperative Program (Program). The Program established a limited access privilege program for the non-AFA trawl catcher/processor sector.

The Amendment 80 economic data report (EDR) collects cost, revenue, ownership, and employment data on an annual basis and provides information unavailable through other means to review the Program. The purpose of the EDR is to understand the economic effects of the Amendment 80 program on vessels or entities regulated by the Program, and to inform future management actions. Data collected through the EDR is mandatory for all Amendment 80 quota share (QS) holders.

Affected Public: Business or other for-profit organizations.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov.*

Dated: August 20, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–21153 Filed 8–24–10; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration (ITA).

Title: Application for Designation of a Fair.

OMB Control Number: 0625–0228.

Form Number(s): ITA–4135P.

Type of Request: Regular submission.

Burden Hours: 100.

Number of Respondents: 200.

Average Hours per Response: 30 minutes.

Needs and Uses: The International Trade Administration's Tourism Industries Office offers trade fair guidance and assistance to trade fair organizers, trade fair operators, and other travel and trade oriented goods. These fairs open doors to promising travel markets around the world. The "Application for Designation of a Fair" is a questionnaire that is prepared and signed by an organizer to provide details such as the date, place, and sponsor of the Fair, as well as license, permit, and corporate backers, and participating countries.

To apply for the U.S. Department of Commerce sponsorship, the fair organizer must have all of the components of the application in order. Then, with the approval, the organizer is able to bring in their products in accordance with Customs laws. The articles which may be brought in include, but are not limited to, actual exhibit booths, exhibit items, pamphlets, brochures, and explanatory material in reasonable quantities relating to the foreign exhibits at a fair, and material for use in constructing, installing, or maintaining foreign exhibits at a fair.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Wendy Liberante, (202) 395–3647.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*.)

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Wendy Liberante, OMB Desk Officer, Fax number (202) 395–5806 or via the Internet at *wliberante@omb.eop.gov*.

Dated: August 20, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–21101 Filed 8–24–10; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XY40

Pacific Fishery Management Council; Tule Chinook Workgroup Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Tule Chinook Workgroup (TCW) will hold a meeting to discuss issues and make assignments relative to developing an abundance-based harvest management approach for Columbia River natural tule chinook . This meeting of the TCW is open to the public.

DATES: The meeting will be held Thursday, September 30, 2010, from 9 a.m. to 1 p.m.

ADDRESSES: The meeting will be held at the Pacific Council Office, Large Conference Room, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Chuck Tracy, Salmon Management Staff Officer, Pacific Fishery Management Council, telephone: 503–820–2280.

SUPPLEMENTARY INFORMATION: This first meeting of the TCW will be primarily an organizational meeting. Eventually, TCW work products will be reviewed by the Council, and if approved, would be submitted to NMFS for possible consideration in the next Lower Columbia River tule biological opinion for ocean salmon seasons in 2012 and beyond, and distributed to State and Federal recovery planning processes. In the event a usable approach emerges from this process, the Council may consider an FMP amendment process beginning after November 2011 to adopt the approach as a formal conservation objective in the Salmon FMP.

Although nonemergency issues not contained in the meeting agenda may come before the TCW for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at 503–820–2280 at least five days prior to the meeting date.

Dated: August 20, 2010.

William D. Chappell,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–21081 Filed 8–24–10; 8:45 am]

BILLING CODE 3510–22–S

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

[7/30/2010 through 8/17/2010]

Firm	Address	Date accepted for filing	Products
Central Machine, Inc	1318 China Road, Winslow, ME 04901.	7/30/2010	The company manufactures parts for the military, power generation industry, the wood chipping industry and private sector companies from steels, stainless steel, aluminum, and plastics.
Atlas Machining & Welding, Inc.	777 Smith Lane, Northampton, PA 18067.	8/2/2010	The company is a machining & welding job shop that performs laser cutting, fabrication and machining of parts for the cement industry and manufactures parts and assemblies.
Bracalente Manufacturing Company, Inc.	20 W. Creamery Road, Trumbauersville, PA 18970.	8/2/2010	The company manufactures fabricated metal products.
Ebeling Associates, Inc. dba EXEControl.	9 Corporate Drive, Clifton Park, NY 12065.	8/2/2010	The Company develops markets and supports the EXEControl™ Global Solutions Information System and provides business consulting services. The Company also develops ERP (Enterprise Resource Planning) information system software with services including software.
Game Equipment, LLC	3322 Hwy. 308, Napoleonville, LA 70390.	8/2/2010	The company manufactures motorized equipment for the seeding and harvesting of organic produce.
Performance Processing Ventures, LLC.	660 Martin Luther King, Jr. Blvd, Farrell, PA 16121.	8/2/2010	The company performs the shape cutting of steel parts for industry and general fabricating.
TEM, Inc	8 Pierce Drive, Buxton, ME 04093.	8/2/2010	The company manufactures machined inlet and outlet pipes and end caps for gas furnaces through milling, drilling, bending and stamping raw materials (stainless steel).
Bauer, Inc	175 Century Drive, Bristol, CT 06010.	8/4/2010	The company manufactures aircraft and motor vehicle measurement equipment using steel or stainless steel.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT—Continued

[7/30/2010 through 8/17/2010]

Firm	Address	Date accepted for filing	Products
R.L. Bryan Company	301 Greystone Blvd., Columbia, SC 29210.	8/5/2010	The company produces commercial printed products whose primary material is paper and ink.
Magna IV Color Imaging, Inc	2401 Commercial Lane, Little Rock, AR 72206–1680.	8/6/2010	The company performs commercial and digital printing.
Specialized Turning, Inc	7 Summit Industrial, Park Peabody, MA 01960.	8/6/2010	The company performs the machining of engineered components from stainless steel, plastics, titanium and aerospace alloys.
American Process Lettering, Inc. dba Ampro Sports.	30 Bunting Lane, Primos, PA 19018.	8/10/2010	The company manufactures screen printed and embroidered apparel for brands selling to retail, sports teams, corporations.
Integrated Security, Inc	369 Central Street, Foxboro, MA 02035.	8/10/2010	The company manufactures high value added electronic and mechanical security systems and assembles complete systems for various components for clients in the corporate, higher education, property management and health care environments.
Synthetech, Inc	1290 Industrial Way, P.O. Box 646, Albany, OR 97321.	8/10/2010	The company produces chemical intermediates used in research development, clinical development, and commercial supply for the pharmaceutical industry.
Flex-Tec, Inc	P.O. Box 528, Byromville, GA 31007.	8/11/2010	The company produces electrical wiring harnesses and lighting fixture components whose primary manufacturing material is copper wire and terminals.
Lawrence Fabric Structures, Inc.	3509 Tree Court, Industrial Blvd., St. Louis, MO 63122–6619.	8/16/2010	The company manufactures awnings, canopies, tension structures, and exhibit components and banners.
Wichita Sheet Metal Supply, Inc.	1601 Sheridan Street, Wichita, KS 67213–1339.	8/16/2010	The company manufactures warm air heating and air conditioning equipment and supplies and performs sheet metal work.
Wikoff Color Corporation	1886 Merritt Road, Fort Mill, SC 29715.	8/16/2010	The company produces inks and coatings whose manufacturing materials include pigments, resins, solvents & additives.

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: August 19, 2010.

Bryan Borlik,

Program Director.

[FR Doc. 2010–21088 Filed 8–24–10; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* August 25, 2010.

FOR FURTHER INFORMATION CONTACT: Gayle Longest, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230, telephone: (202) 482–3338.

SUPPLEMENTARY INFORMATION: Section 702 of the Trade Agreements Act of 1979 (as amended) ("the Act") requires the Department of Commerce ("the Department") to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(h) of the Act, and to publish an annual list and quarterly updates to the type and amount of those subsidies. We hereby provide the Department's quarterly update of subsidies on articles of cheese that were imported during the period April 1, 2010, through June 30, 2010.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h) of the Act) being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available. The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th

Street and Constitution Ave., NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the Act and 19 CFR 351.601.

Dated: August 19, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Appendix—Subsidy Programs on Cheese Subject to an In-Quota Rate of Duty

Country	Program(s)	Gross [1] subsidy ($/lb)	Net [2] subsidy ($/lb)
27 European Union Member States [3]	European Union Restitution Payments	$0.00	$0.00
Canada	Export Assistance on Certain Types of Cheese	0.34	0.34
Norway	Indirect (Milk) Subsidy	0.00	0.00
	Consumer Subsidy	0.00	0.00
Total		0.00	0.00
Switzerland	Deficiency Payments	0.00	0.00

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).
[3] The 27 member states of the European Union are: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

[FR Doc. 2010–21180 Filed 8–24–10; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Scope Rulings

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* August 25, 2010.

SUMMARY: The Department of Commerce (“Department”) hereby publishes a list of scope rulings completed between January 1, 2010, and March 31, 2010. In conjunction with this list, the Department is also publishing a list of requests for scope rulings and anticircumvention determinations pending as of March 31, 2010. We intend to publish future lists after the close of the next calendar quarter.

FOR FURTHER INFORMATION CONTACT: Julia Hancock, AD/CVD Operations, China/NME Group, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: 202–482–1394.

SUPPLEMENTARY INFORMATION:

Background

The Department’s regulations provide that the Secretary will publish in the **Federal Register** a list of scope rulings on a quarterly basis. *See* 19 CFR 351.225(o). Our most recent notification of scope rulings was published on July 1, 2010. *See Notice of Scope Rulings,* 75 FR 38081 (July 1, 2010). This current notice covers all scope rulings and anticircumvention determinations completed by Import Administration between January 1, 2010, and March 31, 2010, inclusive, and it also lists any scope or anticircumvention inquiries pending as of March 31, 2010. As described below, subsequent lists will follow after the close of each calendar quarter.

Scope Rulings Completed Between January 1, 2010, and March 31, 2010

People’s Republic of China

A–570–804: Sparklers from the People’s Republic of China. Requestor: American Promotional Events, Inc. (“American Promotional”); American Promotional’s Sparkling Tree is outside the scope of the antidumping duty order; March 22, 2010.

A–570–891: Hand Trucks from the People’s Republic of China. Requestor: E&B Giftware LLC (“E&B Giftware”); E&B Giftware’s ML6275C personal luggage cart is within the scope of the antidumping duty order; February 3, 2010.

A–570–891: Hand Trucks from the People’s Republic of China. Requestor: Packard Professional Distribution (“Packard”); Packard’s foldable hand truck model FHT200 is outside the scope of the antidumping duty order; March 26, 2010.

A–570–901: Certain Lined Paper Products from the People’s Republic of China. Requestor: Livescribe, Inc. (“Livescribe”); Livescribe’s patented dot-patterned paper is outside the scope of the antidumping duty order; March 2, 2010.

A–570–909: Steel Nails from the People’s Republic of China. Requestor: Itochu Building Products (“IBP”); IBP’s plastic cap roofing nails are within the scope of the antidumping duty order; January 10, 2010.

A–570–922: Raw Flexible Magnets from the People’s Republic of China. Requestor: It’s Academic; It’s Academic’s magnet packages are within the scope of the antidumping duty order; March 4, 2010.

A–570–929: Polyethylene Terephthalate (“PET”) Film from the People’s Republic of China. Requestor: Coated Fabrics Company (“CFC”); CFC’s Amorphous PET (“APET”), Glycol-modified PET (“PETG”), and coextruded APET and with PETG on its outer surfaces (“GAG Sheet”) are outside the scope of the antidumping duty order; January 7, 2010.

Anticircumvention Determinations Completed Between January 1, 2010, and March 31, 2010

None.

Scope Inquiries Terminated Between January 1, 2010, and March 31, 2010

None.

Anticircumvention Inquiries Terminated Between January 1, 2010, and March 31, 2010

None.

Scope Inquiries Pending as of March 31, 2010

Germany

A–428–801: Ball Bearings and Parts from Germany. Requestor: The Schaeffler Group; whether certain ball roller bearings are within the scope of

the antidumping duty order, requested April 28, 2009; preliminary ruling issued on January 4, 2010.

A–428–801: Ball Bearings and Parts from Germany. Requestor: Myonic GmbH; whether turbocharger spindle units are within the scope of the antidumping duty order, requested January 11, 2010.

People's Republic of China

A–570–502: Iron Construction Castings from the People's Republic of China. Requestor: National Diversified Sales; whether its grates and frames are within the scope of the antidumping duty order; requested February 12, 2010.

A–570–504: Petroleum Wax Candles from the People's Republic of China. Requestor: Trade Associates Group, Ltd.; whether its candles (multiple designs) are within the scope of the antidumping duty order; requested June 11, 2009.

A–570–504: Petroleum Wax Candles from the People's Republic of China. Requestor: Sourcing International, LLC; whether its flower candles are within the scope of the antidumping duty order; requested June 24, 2009.

A–570–504: Petroleum Wax Candles from the People's Republic of China. Requestor: Candym Enterprises Ltd.; whether its vegetable candles are within the scope of the antidumping duty order; requested November 9, 2009.

A–570–504: Petroleum Wax Candles from the People's Republic of China. Requestor: Sourcing International; whether its candles (multiple designs) are within the scope of the antidumping duty order; requested July 28, 2009.

A–570–504: Petroleum Wax Candles from the People's Republic of China. Requestor: Sourcing International; whether its floral bouquet candles are within the scope of the antidumping duty order; requested August 25, 2009.

A–570–601: Tapered Roller Bearings from the People's Republic of China. Requestor: New Trend Engineering Ltd.; whether its certain wheel hub assemblies are within the scope of the antidumping duty order; requested March 5, 2010.

A–570–601: Tapered Roller Bearings from the People's Republic of China. Requestor: Blackstone OTR LLC and OTR Wheel Engineering, Inc.; whether its wheel hub assemblies are within the scope of the antidumping duty order; requested March 3, 2010.

A–570–806: Silicon Metal from the People's Republic of China. Requestor: Globe Metallurgical Inc.; whether certain silicon metal exported by Ferro-Alliages et Mineraux to the United States from Canada is within the scope of the antidumping duty order; requested October 1, 2008.

A–570–827: Cased Pencils from the People's Republic of China. Requestor: Inspired Design LLC; whether its pedestal pets are within the scope of the antidumping duty order; requested March 4, 2010.

A–570–864: Pure Magnesium in Granular Form from the People's Republic of China. Requestor: ESM Group Inc.; whether atomized ingots are within the scope of the antidumping duty order; initiated April 18, 2007; preliminary ruling issued August 27, 2008.

A–570–868: Folding Metal Tables and Chairs from the People's Republic of China. Requestor: Academy Sports & Outdoors, ("Academy"); whether Academy's bistro sets, consisting of two chairs and a table, are outside the scope of the antidumping duty order; requested January 11, 2010.

A–570–890: Wooden Bedroom Furniture from the People's Republic of China. Requestor: Target Corporation; whether its accent table is within the scope of the antidumping duty order; requested March 18, 2010.

A–570–891: Hand Trucks from the People's Republic of China. Requestor: Northern Tool & Equipment Co.; whether a high-axle torch cart (item #164771) is within the scope of the antidumping duty order; requested March 23, 2007.

A–570–899: Artist Canvas from the People's Republic of China. Requestor: Wuxi Phoenix Artist Materials Co., Ltd.; whether its framed artist canvas is within the scope of the antidumping duty order; requested January 15, 2010.

A–570–899: Artist Canvas from the People's Republic of China. Requestor: Masterpiece Artist Canvas; whether its scrapbooking canvas is within the scope of the antidumping duty order; requested March 20, 2010.

A–570–909: Steel Nails from the People's Republic of China. Requestor: Target Corporation; whether its tool kit is within the scope of the antidumping duty order; requested December 11, 2009.

A–570–922: Raw Flexible Magnets from the People's Republic of China. Requestor: InterDesign; whether its raw flexible magnets are within the scope of the antidumping duty order; requested March 26, 2010.

A–570–932: Steel Threaded Rod from the People's Republic of China. Requestor: Elgin Fastener Group; whether its cold headed double threaded ended bolt is within the scope of the antidumping duty order; requested November 4, 2009.

A–570–941/C–570–942: Kitchen Appliance Shelving and Racks from the People's Republic of China. Requestor: Custom BioGenic Systems, Inc.; whether its inventory control racks are within the scope of the antidumping duty and countervailing orders; requested March 4, 2010.

Multiple Countries

A–533–838/C–533–839/A–570–892: Carbazole Violet Pigment 23 from India and the People's Republic of China. Requestor: Nation Ford Chemical Co., and Sun Chemical Corp.; whether finished carbazole violet pigment exported from Japan is within the scope of the antidumping duty order; requested February 23, 2010.

Anticircumvention Rulings Pending as of March 31, 2010

A–570–849: Certain Cut-to-Length Carbon Steel from the People's Republic of China. Requestor: ArcelorMittal USA, Inc.; Nucor Corporation; SSAB N.A.D., Evraz Claymont Steel and Evraz Oregon Steel Mills; whether certain cut-to-length carbon steel plate from the People's Republic of China, that contain small levels of boron, involve such a minor alteration to the merchandise that is so insignificant and thus are circumventing the antidumping duty order; requested February 17, 2010.

A–570–894: Certain Tissue Paper Products from the People's Republic of China. Requestor: Seaman Paper Company of Massachusetts, Inc.; whether certain imports of tissue paper from Vietnam are circumventing the antidumping duty order; requested February 18, 2010.

A–570–928: Uncovered Innerspring Units from the People's Republic of China. Requestor: Leggett & Platt, Incorporated; whether coils (including individual coils, coil strips, and other made-up articles of innersprings units) and border rods from the People's Republic of China, which are assembled post-importation into innerspring units in the United States, are circumventing the antidumping duty order; requested March 15, 2010.

Interested parties are invited to comment on the completeness of this list of pending scope and anticircumvention inquiries. Any comments should be submitted to the Deputy Assistant Secretary for AD/CVD Operations, Import Administration, International Trade Administration, 14th Street and Constitution Avenue, NW., APO/Dockets Unit, Room 1870, Washington, DC 20230.

This notice is published in accordance with 19 CFR 351.225(o).

Dated: July 9, 2010.

Edward C. Yang,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–21018 Filed 8–24–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2009–OS–0163]

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 September 24, 2010.

Title, Form and OMB Number: Request for Armed Forces Participation in Public Events (Non-Aviation), DD Form 2536 and Request for Military Aerial Support, DD Form 2535; OMB Number 0704–0290.

Type of Request: Extension.

Number of Respondents: 51,000.

Responses per Respondent: 1.

Annual Responses: 51,000.

Average Burden per Response: 21 minutes.

Annual Burden Hours: 17,850.

Needs and Uses: This information collection requirement is necessary to evaluate the eligibility of events to receive Armed Forces community relations support and to determine whether requested military assets are available.

Affected Public: Individuals or households; not-for-profit institutions; Federal Government; state, local or tribal government.

Frequency: On Occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra 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: July 26, 2010.

Patricia L. Toppings,

OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2010–21105 Filed 8–24–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2007–OS–0128]

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 September 24, 2010.

Title, Form, and OMB Number: Application for Department of Defense Access Card—Defense Biometric Identification System (DBIDS) Enrollment; OMB Control Number 0704–0455.

Type of Request: Revision.

Number of Respondents: 1,621,487.

Responses per Respondent: 1.

Annual Responses: 1,621,487.

Average Burden per Response: 7.25 minutes.

Annual Burden Hours: 195,929.

Needs and Uses: This information collection requirement is needed to obtain the necessary data to verify eligibility for a Department of Defense physical access card for personnel who are not entitled to a Common Access Card or other approved DoD identification card. The information is used to establish eligibility for the physical access to a DoD installation or facility, detect fraudulent identification cards, provide physical access and population demographic reports, provide law enforcement data, and in some cases provide anti-terrorism screening.

Affected Public: Individuals or households.

Frequency: On Occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra 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: July 26, 2010.

Patricia L. Toppings,

OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2010–21108 Filed 8–24–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DOD–2010–DARS–0115]

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 September 24, 2010.

Title, Associated Forms and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Appendix I, DoD Pilot Mentor-Protege Program; OMB Control Number 0704–0332.

Type of Request: Extension.

Number of Respondents: 190.

Responses per Respondent: 1.96.

Annual Responses: 372.

Average Burden per Response: 1 hour.

Total Record Keeping Hours: 589 hours.

Annual Burden Hours: 961 hours.

Needs and Uses: DoD needs this information to evaluate whether the purposes of the DoD Pilot Mentor-Protege Program have been met. The purposes of the Program are to (1) Provide incentives to major DoD contractors to assist protege firms in enhancing their capabilities to satisfy contract and subcontract requirements; (2) increase the overall participation of protege firms as subcontractors and suppliers; and (3) foster the establishment of long-term business relationships between protege firms and major DoD contractors. This Program implements section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. 101–510) and section 811 of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. 106–65) (10 U.S.C. 2302 note). Participation in the Program is voluntary.

Affected Public: Business or other for-profit; not-for-profit institutions.

Frequency: Semiannually (mentor); Annually (protege).

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra 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: July 26, 2010.

Patricia L. Toppings,

OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2010–21106 Filed 8–24–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2009–OS–0170]

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 September 24, 2010.

Title and OMB Number: Department of Defense National Survey of Employers; OMB Number 0704–TBD.

Type of Request: New.

Number of Respondents: 24,000.

Responses per Respondent: 1.

Annual Responses: 24,000.

Average Burden per Response: 25 minutes.

Annual Burden Hours: 10,000 hours.

Needs and Uses: The Department of Defense National Survey of Employers is designed to determine ways of supporting employers when Guard and Reserve employees are absent due to military duties, determine general attitudes toward Guard and Reserve employees and their contributions to employers, and examine knowledge of and compliance with Uniformed Services Employment and Reemployment Rights Act.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal Government; State, local or Tribal government.

Frequency: One-time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra 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: July 6, 2010.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–21109 Filed 8–24–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2009–HA–0186]

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 September 24, 2010.

Title and OMB Number: Women, Infants and Children Overseas Participant Satisfaction Survey; OMB Control Number 0720–TBD.

Type of Request: New.

Number of Respondents: 150.

Responses per Respondent: 1.

Annual Responses: 150.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 38 hours.

Needs and Uses: The information collection requirement is necessary to obtain the participants satisfaction levels with the services provided by the WIC overseas staff and the overall program. The findings from these surveys will be used to determine the success of the WIC overseas program and if improvements are necessary.

Affected Public: Individuals or households.

Frequency: On occasion.

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: August 2, 2010.

Patricia L. Toppings,

OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2010–21113 Filed 8–24–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2009–HA–0150]

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 September 24, 2010.

Title and OMB Number: TRICARE Award Fee Provider Survey; OMB Control Number 0720–TBD.

Type of Request: New.

Number of Respondents: 150.

Responses per Respondent: 4.

Annual Responses: 600.

Average Burden per Response: 5 minutes.

Annual Burden Hours: 50 hours.

Needs and Uses: The information collection requirement is necessary to obtain and record TRICARE network civilian provider-user satisfaction with the administrative processes/services of managed care support contractors (MCSC) in the three TRICARE regions within the United States. The survey will obtain provider opinions regarding claims processing, customer service, and administrative support by the TRICARE regional contractors. The reports of findings from these surveys, coupled with performance criteria from other sources, will be used by the TRICARE Regional Administrative Contracting Officers to determine award fees.

Affected Public: Business or other for-profit; not-for-profit institutions; individuals or households.

Frequency: Quarterly.

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: August 2, 2010.

Patricia L. Toppings,

OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2010–21112 Filed 8–24–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2010–HA–0001]

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 September 24, 2010.

Title and OMB Number: Prospective Department of Defense Studies of U.S. Military Forces: The Millennium Cohort Study—OMB Control Number 0720–0029.

Type of Request: Revision.

Number of Respondents: 45,099.

Responses per Respondent: 1.

Annual Responses: 45,099.

Average Burden per Response: 45 minutes.

Annual Burden Hours: 33,824 hours.

Needs and Uses: The Millennium Cohort Study responds to recent recommendations by Congress and by the Institute of Medicine to perform investigations that systematically collect population-based demographic and health data so as to track and evaluate the health of military personnel throughout the course of their careers and after leaving military service. The Millennium Cohort Study will also evaluate family impact by adding a

spouse assessment component to the Cohort, called the Millennium Cohort Family Study.

Affected Public: Individuals or households.

Frequency: On occasion.

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: August 2, 2010.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–21111 Filed 8–24–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2010–OS–0015]

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 September 24, 2010.

Title and OMB Number: Survey of Foreign Acquired Domestic Facilities with Defense Capabilities; OMB Control Number 0704–TBD.

Type of Request: New.

Number of Respondents: 86.

Responses per Respondent: 1.

Annual Responses: 86.

Average Burden per Response: 5 hours.

Annual Burden Hours: 430 hours

Needs and Uses: As part of its industrial base oversight responsibilities, DoD is planning to assess in a preliminary way the impact on the U.S. industrial base of the increasing foreign ownership of U.S. defense-relevant firms. Specifically, DoD will evaluate the extent to which foreign acquired firms (1) expanded domestically vs. off-shored production and R&D capabilities; and (2) remained reliable suppliers to defense customers. This assessment is limited to a sample of firms that were DoD suppliers when they were foreign-acquired in 2003 or 2004 and that the Office of the Under Secretary of Defense for Acquisition, Technology & Logistics determined at that time possessed defense critical technology under development.

Affected Public: Business or other-for-profit.

Frequency: One-time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra 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 30, 2010.

Patricia L. Toppings,

OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2010–21110 Filed 8–24–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment request.

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 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before September 24, 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.* Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: August 20, 2010.

Sheila Carey,

Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Federal Student Aid

Type of Review: Revision.

Title of Collection: William D. Ford Federal Direct Loan (Direct Loan) Program Federal Direct PLUS Loan Master Promissory Note and Endorser Addendum.

OMB Control Number: 1845–0068.

Agency Form Number(s): N/A.

Frequency of Responses: On occasion.

Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 1,364,219.

Total Estimated Annual Burden Hours: 682,110.

Abstract: The Federal PLUS Loan Master Promissory Note (Direct PLUS Loan MPN) serves as the means by which an individual applies for and agrees to repay a Federal Direct PLUS Loan. The Direct PLUS Loan MPN also informs the borrower of the terms and conditions of Direct PLUS Loan and includes a statement of borrower's rights and responsibilities. A Direct PLUS Loan borrower must not have an adverse credit history. If an applicant for a Direct PLUS Loan is determined to have an adverse credit history, the applicant may qualify for a Direct PLUS Loan by obtaining an endorser who does not have an adverse credit history. The Endorser Addendum serves as the means by which an endorser agrees to repay the Direct PLUS Loan if the borrower does not repay it.

Requests for copies of the information collection submission for OMB review may be accessed from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or from the Department's Web site at *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4339. When you access the information collection, click on "Download Attachments " to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2010–21162 Filed 8–24–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before September 24, 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 emailed to *oira_submission@omb.eop.gov* with a cc: to *ICDocketMgr@ed.gov*. Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: August 19, 2010.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Federal Student Aid

Type of Review: Revision.

Title of Collection: William D. Ford Federal Direct Loan (Direct Loan) Program, Repayment Plan Selection Form.

OMB Control Number: 1845–0014.

Agency Form Number(s): N/A.

Frequency of Responses: On occasion.

Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 660,000.

Total Estimated Annual Burden Hours: 217,800.

Abstract: A Direct Loan Program borrower may use the Repayment Plan Selection form to select an initial repayment plan prior to entering repayment, or to request a change from the borrower's current repayment plan to a different repayment plan. For borrowers who select the Income Contingent Repayment Plan or the Income-Based Repayment (IBR) Plan, the Repayment Plan Selection form also serves as the means by which the U.S. Department of Education collects the information needed to calculate the borrower's monthly payment amount and, in the case of the IBR plan, the information needed to determine the borrower's initial eligibility to repay under this plan.

Requests for copies of the information collection submission for OMB review may be accessed from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or from the Department's Web site at *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4340. When you access the information collection, click on "Download Attachments " to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2010–21173 Filed 8–24–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Presidential Academies for American History and Civics Education; Congressional Academies for Students of American History and Civics Education

AGENCY: Office of Innovation and Improvement, Department of Education.

ACTION: Notice of final waiver and extension of project period.

SUMMARY: The Secretary announces a waiver of the requirements in 34 CFR 75.250 and 75.261(c)(2) of the Education Department General Administrative Regulations (EDGAR), as they apply to projects funded under the Presidential Academies for American History and Civics Education, and 34 CFR 75.261(c)(2), as it applies to the project funded under the Congressional Academies for Students of American History and Civics Education program. These regulations, respectively, generally prohibit project periods exceeding five years and any project period extensions involving the obligation of additional Federal funds. A waiver will extend the project period for 24 months through fiscal year (FY) 2012 for the two current five-year grants funded under the Presidential Academies for American History and Civics Education program and the one current three-year grant funded under the Congressional Academies for Students of American History and Civics Education program. These grantees will continue to receive additional Federal funds (from the FY 2010 appropriation for the program).

DATES: *Effective Date:* This waiver and extension of project period are effective August 25, 2010.

FOR FURTHER INFORMATION CONTACT: Kelly Terpak, U.S. Department of Education, 400 Maryland Avenue, SW., room 4W253, Washington, DC 20202–5960, Telephone: (202) 205–5231 or by e-mail: *Academies@ed.gov*.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service, toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

The Presidential Academies for American History and Civics Education (Presidential Academies) program funds projects that offer workshops for both veteran and new teachers of American history and civics to strengthen their knowledge of, and preparation for, teaching these subjects. The Congressional Academies for Students of American History and Civics Education (Congressional Academies) program funds projects that help students to develop a broader and deeper understanding of these subjects. Currently, the Presidential Academies program funds two grantees, and the Congressional Academies program funds one grantee.

Eligible entities for these programs are: Institutions of higher education, museums, libraries, and other public and private agencies, organizations, and institutions (including for-profit institutions) and consortia of such agencies, organizations, and institutions. Applicants must provide evidence of their organization's demonstrated expertise in historical methodology or the teaching of history.

We published a notice of proposed waiver and extension of project period in the **Federal Register** on June 30, 2010, (75 FR 37780). That notice contained background information and our reasons for proposing the waiver and extension of project period.

As outlined in that notice, we proposed this waiver and extension of project period in order to enable each of the current grantees to strengthen the quality of its evaluation and other data collection and reporting, and to conduct one additional round of academy activities as approved in each grant award. We believe the additional time and resources will provide information to strengthen this grant competition as well as similar professional development grant programs in coming years.

In the case of these projects we believe it is preferable to review requests for continuation awards from the current grantees and extend currently funded projects, rather than hold a new competition in FY 2010. Authorizing current grantees to request additional funds would be a more appropriate and effective means of continuing current projects and would result in a more cost-effective use of Federal funds.

Therefore, the Secretary waives the requirements in 34 CFR 75.250, which prohibit project periods exceeding five years, and the requirements in 34 CFR 75.261(c)(2), which limit the extension of a project period if it involves the obligation of additional Federal funds. With this waiver and extension of project period: (1) Current Presidential Academies and Congressional Academies grantees will receive FY 2010 funds and continue to operate through FY 2012 to implement an additional budget period of up to 24 months; and (2) we will not announce a new competition or make new awards under the Presidential Academies or Congressional Academies programs in FY 2010.

Public Comment: In response to our invitation in the notice of proposed waiver and extension of project period, we did not receive any substantive comments on the proposed waiver and extension of project period.

Final Waiver and Extension of Project Period—Presidential Academies and Congressional Academies

The Secretary will waive the requirements in 34 CFR 75.250, which prohibit project periods exceeding five years, and the requirements in 34 CFR 75.261(c)(2), which limit the extension of a project period if it involves the obligation of additional Federal funds, for the current Presidential Academies (34 CFR 75.250 and 34 CFR 75.261(c)(2)) and Congressional Academies grantees (34 CFR 75.261(c)(2)).

Regulatory Flexibility Act Certification

The Secretary certifies that this waiver and extension of project period will not have a significant economic impact on a substantial number of small entities.

The small entities that will be affected by this notice are those that have been historically eligible to receive an award under a competition for the Presidential Academies and Congressional Academies programs:

(1) Institutions of higher education.

(2) Museums.

(3) Libraries.

(4) Other public and private agencies, organizations and institutions (including for-profit institutions).

(5) Consortia of such agencies, organizations, and institutions that show their organizations' demonstrated expertise in historical methodology or the teaching of history.

The Secretary certifies that the waiver and extension of project period will not have a significant economic impact on these entities because the waivers and the activities required to support the additional years of funding will not impose excessive regulatory burdens or require unnecessary Federal supervision. The waiver will impose minimal requirements to ensure the proper expenditure of program funds, including requirements that are standard for continuation awards.

Paperwork Reduction Act of 1995

This notice does not impact information collection requirements.

Intergovernmental Review

These programs are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of

the objectives of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism. The Executive Order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for these programs.

Accessible Format: 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**.

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 GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

(Catalog of Federal Domestic Assistance Numbers 84.215A, Presidential Academies for American History and Civics Education, and 84.215D, Congressional Academies for Students of American History and Civics Education)

Program Authority: 20 U.S.C. 6713.

Dated: August 20, 2010.

James H. Shelton, III,

Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. 2010–21175 Filed 8–24–10; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Meeting; Cancellation

AGENCY: United States Election Assistance Commission (EAC).

ACTION: Notice to cancel EAC public meeting.

SUMMARY: The U.S. Election Assistance Commission has cancelled the EAC closed session meeting scheduled for Wednesday, August 25, 2010, 9–11 a.m. EDT. The meeting was announced in a sunshine notice that was published in the **Federal Register** on Wednesday, August 18, 2010 in Volume 75, Number 159.

PERSON TO CONTACT FOR INFORMATION: Bryan Whitener, Telephone: (202) 566–3100.

Donetta Davidson,

Chair, U.S. Election Assistance Commission.

[FR Doc. 2010–21266 Filed 8–23–10; 4:15 pm]

BILLING CODE 6820–KF–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, September 9, 2010, 9 a.m.–5 p.m., Friday, September 10, 2010, 8:30 a.m.–4 p.m.

ADDRESSES: Red Lion Hotel, 1415 5th Avenue, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Paula Call, Federal Coordinator, Department of Energy Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, A7–75, Richland, WA 99352; Phone: (509) 376–2048; or E-mail: *Paula_K_Call@rl.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

- Agency Updates, including progress on the American Recovery and Reinvestment Act (Office of River Protection and Richland Operations Office; Washington State Department of Ecology; U.S. Environmental Protection Agency)
- Committee Updates, including: Tank Waste Committee; River and Plateau Committee; Health, Safety and Environmental Protection Committee; Public Involvement Committee; and Budgets and Contracts Committee
- Potential Board Advice
  - 100 N Remedial Investigation/Feasibility Study Work Plan
  - Public Involvement Strategic Planning
  - Open Meetings
- Hanford Advisory Board (HAB) Chair Nominations
- New Member Introductions
- HAB 2011 Work Plan
- Tutorials
  - How to write advice
  - HAB website
- Committee Reports
- Board Business

Public Participation: The meeting is open to the public. The EM SSAB, Hanford, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Paula Call at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Paula Call at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Paula Call's office at the address or phone number listed above. Minutes will also be available at the following Web site: *http://www.hanford.gov/page.cfm/hab.*

Issued in Washington, DC on August 19, 2010.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. 2010–21118 Filed 8–24–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP10–471–000]

Texas Eastern Transmission, L.P.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Hot Springs Lateral Project and Request for Comments on Environmental Issues

August 18, 2010.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of

the Hot Springs Lateral Project involving construction and operation of facilities by Texas Eastern Transmission, L.P. (Texas Eastern) in Hot Springs, White, and Nevada Counties, Arkansas. This EA will be used by the Commission in its decisionmaking process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues need to be evaluated in the EA. Please note that the scoping period will close on September 17, 2010.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives are asked to notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

A fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" was attached to the project notice Texas Eastern provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (*http://www.ferc.gov*).

Summary of the Proposed Project

Texas Eastern proposes to construct and operate approximately 8.4 miles of 16-inch-diameter pipeline and appurtenant facilities in Hot Springs, White, and Nevada Counties, Arkansas. The Hot Springs Lateral Project would provide about 112,000 dekatherms per day of natural gas. According to Texas Eastern, its project would provide KGen Hot Springs LLC's (KGen) Hot Spring Energy Facility with natural gas for its 620-megawatt natural gas-fired, combined cycle electric generating facility.

The Hot Springs Lateral Project would consist of the following facilities:

- 8.4 miles of 16-inch-diameter pipeline;
- Hot tap facilities on Texas Eastern's existing 24-inch-diameter Line 1 at approximately milepost (MP) 166.9 to connect the new 16-inch-diameter pipeline to Line 1;
- An internal inspection tool (pig [1]) launcher to the 16-inch-diameter pipeline lateral;
- A pig receiver on the 16-inch-diameter pipeline lateral; and
- A new metering and regulating (M&R) station.

The general location of the project facilities is shown in Appendix 1.[2]

Land Requirements for Construction

Construction of the proposed facilities would disturb about 117.8 acres of land for the aboveground facilities and the pipeline. Following construction, about 51.4 acres would be maintained for permanent operation of the project's facilities; the remaining acreage would be restored and allowed to revert to former uses. About 74 percent of the proposed pipeline would parallel CenterPoint Energy Gas Transmission's (CenterPoint) existing pipeline right-of-way.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [3] to discover and address concerns the public may have about proposals. This process is referred to as "scoping." The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. All comments received will be considered during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- Land use;
- Water resources, fisheries, and wetlands;
- Cultural resources;
- Vegetation and wildlife;
- Air quality and noise;
- Endangered and threatened species; and
- Public safety.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be presented in the EA. The EA will be placed in the public record and, depending on the comments received during the scoping process, may be published and distributed to the public. A comment period will be allotted if the EA is published for review. We will consider all comments on the EA before we make our recommendations to the Commission. To ensure your comments are considered, please carefully follow the instructions in the Public Participation section below.

With this notice, we are asking agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with applicable State Historic Preservation Office(s), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] We will define the

[1] A "pig" is a tool that is inserted into and moves through the pipeline, and is used for cleaning the pipeline, internal inspections, or other purposes.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *http://www.ferc.gov* using the link called "eLibrary" or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[3] "We", "us", and "our" refer to the environmental staff of the Commission's Office of Energy Projects.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Historic properties are defined in those regulations as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register for Historic Places.

project-specific Area of Potential Effects (APE) in consultation with the SHPO(s) as the project is further developed. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that they will be received in Washington, DC on or before September 17, 2010.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the project docket number (CP10–471–000) with your submission. The Commission encourages electronic filing of comments and has expert eFiling staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to Documents and Filings. An eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments electronically by using the eFiling feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to Documents and Filings. With eFiling you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "eRegister."

You will be asked to select the type of filing you are making. A comment on a particular project is considered a "Comment on a Filing;" or

(3) You may file a paper copy of your comments at the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If the EA is published for distribution, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (Appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an "intervenor" which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the "e-filing" link on the Commission's Web site.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *http://www.ferc.gov* using the "eLibrary" link. Click on the eLibrary link, click on "General Search" and enter the docket number, excluding the last three digits in the Docket Number field (i.e., CP10–471). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–21075 Filed 8–24–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER10–1720–000]

Dry Lake Wind Power II LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

August 18, 2010.

This is a supplemental notice in the above-referenced proceeding, of Dry Lake Wind Power II LLC application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability is August 27, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://*

www.ferc.gov. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email 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.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–21074 Filed 8–24–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Nationwide Limited Public Interest Waiver Under Section 1605 (Buy American) of the American Recovery and Reinvestment Act of 2009 (Recovery Act)

AGENCY: Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy (DOE).

ACTION: Notice of limited waiver.

SUMMARY: The U.S. Department of Energy (DOE) is hereby granting a nationwide limited waiver of the Buy American requirements of section 1605 of the Recovery Act under the authority of Section 1605(b)(1) (public interest waiver), with respect to the following solar photo-voltaic (PV) equipment: (1) Domestically-manufactured modules containing foreign-manufactured cells, (2) Foreign-manufactured modules, when comprised of 100 percent domestically-manufactured cells, and (3) Any ancillary items and equipment (including, but not limited to, charge controllers, combiners and disconnect boxes, breakers and fuses, racks, trackers, lugs, wires, cables and all otherwise incidental equipment with the exception of inverters and batteries) when utilized in a solar installation involving a U.S. manufactured PV module, or a module manufactured abroad but comprised exclusively of domestically-manufactured cells that will be used on eligible EERE- Recovery Act funded projects. This waiver expires on February 6, 2011, six months from the day it took effect.

DATES: *Effective Date:* August 6, 2010.

FOR FURTHER INFORMATION CONTACT: Benjamin Goldstein, Energy Technology Program Specialist, Office of Energy Efficiency and Renewable Energy (EERE), (202) 287–1553, Department of Energy, 1000 Independence Avenue, SW., Mailstop EE–2K, Washington, DC 20585.

SUPPLEMENTARY INFORMATION: Under the authority of the Recovery Act, section 1605(b)(1), the head of a Federal department or agency may issue a "determination of inapplicability" (a waiver of the Buy American provisions) if the application of section 1605 would be inconsistent with the public interest. On November 10, 2009, the Secretary of Energy delegated the authority to make all inapplicability determinations to the Assistant Secretary for Energy Efficiency and Renewable Energy, for EERE Recovery Act projects.

Pursuant to this delegation, the Assistant Secretary has determined that application of section 1605 restrictions would be inconsistent with the public interest for incidental and/or ancillary solar Photovoltaic (PV) equipment, when this equipment is utilized in solar installations containing domestically manufactured PV cells or modules (panels).

Specifically, this public interest determination waives the Buy American requirements in EERE-funded Recovery Act projects for the purchase of the following solar PV equipment: (1) Domestically-manufactured modules containing foreign-manufactured cells, (2) Foreign-manufactured modules, when comprised of 100 percent domestically-manufactured cells, and (3) Any ancillary items and equipment (including, but not limited to, charge controllers, combiners and disconnect boxes, breakers and fuses, racks, trackers, lugs, wires, cables and all otherwise incidental equipment with the exception of inverters and batteries) when utilized in a solar installation involving a U.S. manufactured PV module, or a module manufactured abroad but comprised exclusively of domestically-manufactured cells. This waiver expires on February 6, 2011, six months from the day it took effect.

Solar cells are the basic building block of PV technologies. The cells are functional semiconductors, made by processing and treating crystalline silicon or other photo-sensitive materials to create a layered product that generates electricity by absorbing light photons. The individual cells are assembled into larger groups known as panels or modules. These two terms are synonymous and used interchangeably in this memorandum. The panel is the end product, and consists of a series of solar cells, a backing surface, and a covering to protect the cells from weather and other types of damage. A solar array is created by installing multiple modules in the same location to increase the electrical generating capacity. Operational solar PV modules and arrays use cells to capture and transfer solar-generated electricity. The solar modules and cells represent the highest intellectual content and dollar-value items associated with solar PV energy generation.

The Buy American provisions contain no requirement with regard to the origin of components or subcomponents in manufactured goods used in a project, as long as the manufacturing occurs in the United States [(2 CFR 176.70(a)(2)(ii)]. However, determining where final "manufacturing" occurs is in the context of the complex solar production chain is complicated. Under a plain reading of the Recovery Act Buy American provisions, only the modules would need to be manufactured in the United States, but the source of the components parts—including cells—would not be relevant to complying with the Buy American requirements.

EERE and the National Renewable Energy Laboratory have conducted extensive research into the nature of the domestic solar manufacturing industry to determine the best way to apply the Buy American requirements for solar PV projects. EERE considered three basic options: (1) Follow the current interpretation of the Buy American provisions and require that only the modules be produced in the United States, irrespective of the origin of the cells contained in the modules; (2) apply the interpretation that the modules and cells are distinct manufactured goods and thus both must be produced in the United States; or (3) choose a more inclusive approach that allows a solar installation to comply if either the cells or the module are manufactured in the United States.

Because of the dynamic nature of the solar PV manufacturing sector, the number of manufacturers given below is

approximate. EERE is aware of companies in the process of moving manufacturing capacity into and out of the United States, and new companies may emerge that were not included in the most recent round of research. As a result, these numbers may fluctuate. In addition, thin-film solar PV modules are not covered by this waiver, as grantees have stated, and EERE's research has confirmed, that these products do not meet the specifications for most Recovery Act projects funded by EERE. In the event that a thin film installation is being purchased with EERE Recovery Act funds, then it would meet the Buy American provisions as long as the modules were manufactured in the U.S.

Option 1 is consistent with the current interpretation of the Buy American provisions, which are satisfied as long as final manufacturing takes place in the U.S. However, if EERE were to choose Option 1, there would be only four companies producing solar PV modules in the United States that could sell their products to EERE grantees. If Option 2 were chosen, the market would be even more limited, with only two companies producing both the cell and the module in the United States. Finally, for Option 3, an additional five companies would be able to compete for grantees' solar PV projects in addition to the four that produce modules, bringing the total U.S. marketplace benefit to nine companies.

This public interest waiver affirms EERE's determination that the manufacturing process for cells and the final PV module production represent distinct and significant stages in the solar PV manufacturing chain. Conducting either of these discrete activities in the United States creates roughly equal numbers of American jobs. The design and manufacture of the cells also captures the largest portion of the intellectual property present in a solar array. Designing and increasing the efficiency of cells is high-value work that directly affects the end product. EERE believes the public interest is best served by supporting the domestic cell manufacturing industry at this time. It is therefore in the public interest to issue a waiver of the Recovery Act Buy American provisions that allows grantees to purchase foreign modules made with domestically-manufactured cells, in addition to domestic modules with foreign-produced cells.

Because the Assistant Secretary believes strongly in increasing the domestic PV manufacturing capacity in the United States, she is limiting the duration of this waiver to six months from the date it goes into effect, with the expectation that there will be an increase in the number of companies that produce modules in the United States containing domestically-manufactured cells.

This public interest waiver determination also resolves questions regarding the applicability of the Buy American provisions to numerous individual manufactured goods that are incidental in cost and technological significance but are ultimately incorporated into the final solar installation. These items, such as charge controllers, combiners and disconnect boxes, breakers and fuses, racks, trackers, lugs, wires, and cables, but excluding inverters and batteries, are generally low-cost incidental items that are incorporated into the installation of PV modules and arrays on public buildings and public works. This public interest waiver for all incidental and ancillary items eliminates potential questions and ambiguities concerning whether the incidental items are final manufactured goods or merely components of a larger solar module or array.

Issuance of this nationwide public interest waiver recognizes EERE's commitment to expeditious costing of Recovery Act dollars by enabling recipients to easily ascertain whether a given solar installation complies with the Buy American provision. Simultaneously, this waiver advances the purpose and the principles of the Buy American provision by focusing on the highest-value and most labor-intensive pieces of solar PV equipment.

Having established a proper justification based on the public interest, EERE hereby provides notice that on August 6, 2010, a nationwide public interest waiver of section 1605 of the Recovery Act was issued for ancillary solar Photovoltaic (PV) equipment as detailed *supra.* This notice constitutes the detailed written justification required by Section 1605(c) for waivers based on a finding under subsection (b).

This waiver determination is pursuant to the delegation of authority by the Secretary of Energy to the Assistant Secretary for Energy Efficiency and Renewable Energy with respect to expenditures within the purview of her responsibility. Consequently, this waiver applies to EERE projects carried out under the Recovery Act. This waiver expires on February 6, 2011, six months from the day it took effect. Furthermore, the Assistant Secretary reserves the right to revisit and amend this determination based on new information or new developments.

Authority: Pub. L. 111–5, section 1605.

Issued in Washington, DC on August 16, 2010.

Cathy Zoi,

Assistant Secretary for Energy Efficiency and Renewable Energy, U.S. Department of Energy.

[FR Doc. 2010–21115 Filed 8–24–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Nationwide Categorical Waivers Under Section 1605 (Buy American) of the American Recovery and Reinvestment Act of 2009 (Recovery Act)

AGENCY: Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy (DOE).

ACTION: Notice of limited waivers.

SUMMARY: The U.S. Department of Energy (DOE) is hereby granting a nationwide limited waiver of the Buy American requirements of section 1605 of the Recovery Act under the authority of Section 1605(b)(2) (iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality) with respect to: 24-leaf, motorized DMX iris units; induction lamps and ballasts for induction lighting systems (excluding fixtures for induction lighting); Enphase micro-inverters for solar photovoltaic systems; gas or propane commercial-scale high efficiency condensing wall hung boiler with indirect water heater, 94% or greater efficiency and a BTU output below 350,000, constructed with SA240–316 Ti stainless steel; large-format solar thermal collectors for integrated district heating systems (includes only high-performance flat plate solar collectors that possess the ability to limit the convective heat loss from the absorber plate to the cover glass, effectively minimizing heat losses to less than 2.6 W/m2K; the capability of sustaining output temperatures of 195 degrees F; and a gross collector area of greater than 150 ft^2); turbochargers for Mitsubishi/Man 52/55B diesel generator engine (only in circumstances where replacing an existing MAN/NA48T turbocharger); and Liebert Variable Speed Upgrade Kits and Liebert iCOM Control Upgrade kits for the Liebert Chilled Water Deluxe heating, cooling, and humidification space conditioner that will be used on eligible EERE-Recovery Act funded projects.

DATES: *Effective Date:* August 11, 2010.

FOR FURTHER INFORMATION CONTACT: Benjamin Goldstein, Energy Technology Program Specialist, Office of Energy Efficiency and Renewable Energy (EERE), (202) 287–1553, Department of Energy, 1000 Independence Avenue, SW., Mailstop EE–2K, Washington, DC 20585.

SUPPLEMENTARY INFORMATION: Under the authority of the Recovery Act, Public Law 111–5, section 1605(b)(2), the head of a federal department or agency may issue a "determination of inapplicability" (a waiver of the Buy American provision) if the iron, steel, or relevant manufactured good is not produced or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality ("nonavailability"). On November 10, 2009, the Secretary of Energy delegated the authority to make all inapplicability determinations to the Assistant Secretary for Energy Efficiency and Renewable Energy (EERE), for EERE projects under the Recovery Act. Pursuant to this delegation the Assistant Secretary, EERE, has concluded that 24-leaf, motorized DMX iris units (items used in conjunction with a Source 4 lighting instrument in the theatrical lighting business); Induction lamps and ballasts for induction lighting systems (this waiver does not include fixtures for induction lighting, which are readily available from domestic manufacturers); Enphase micro-inverters for solar photovoltaic systems; gas or propane commercial-scale high efficiency condensing wall hung boiler with indirect water heater, 94% or greater efficiency and a BTU output below 350,000, constructed with SA240–316 Ti stainless steel; large-format solar thermal collectors for integrated district heating systems (includes only high-performance flat plate solar collectors that possess the ability to limit the convective heat loss from the absorber plate to the cover glass, effectively minimizing heat losses to less than 2.6 W/m2K; the capability of sustaining output temperatures of 195 degrees F; and a gross collector area of greater than 150 ft^2); turbochargers for Mitsubishi/Man 52/55B diesel generator engine (only in circumstances where replacing an existing MAN/NA48T turbocharger); and Liebert Variable Speed Upgrade Kits and Liebert iCOM Control Upgrade kits for the Liebert Chilled Water Deluxe heating, cooling, and humidification space conditioner that will be used on eligible EERE-Recovery Act funded projects qualify for the "nonavailability" waiver determination.

EERE has developed a robust process to ascertain in a systematic and expedient manner whether or not there is domestic manufacturing capacity for the items submitted for a waiver of the Recovery Act Buy American provision. This process involves a close collaboration with the United States Department of Commerce National Institute of Standards and Technology (NIST) Manufacturing Extension Partnership (MEP), in order to scour the domestic manufacturing landscape in search of producers before making any nonavailability.

The NIST MEP has 59 regional centers with substantial knowledge of, and connections to, the domestic manufacturing sector. MEP uses their regional centers to 'scout' for current or potential manufacturers of the product(s) submitted in a waiver request. In the course of this interagency collaboration, MEP has been able to find exact or partial matches for manufactured goods that EERE grantees had been unable to locate. As a result, in those cases, EERE was able to work with the grantees to procure American-made products rather than granting a waiver.

Upon receipt of completed waiver requests for the seven products in the current waiver, EERE reviewed the information provided and submitted the relevant technical information to the NIST MEP. The MEP then used their network of nationwide centers to scout for domestic manufacturers. The NIST MEP reported that their scouting process did not locate any domestic manufacturers for these exact or equivalent items.

In addition to the MEP collaboration outlined above, the EERE Buy American Coordinator worked with labor unions, trade associations and other manufacturing stakeholders to scout for domestic manufacturing capacity or an equivalent product for each item contained in this waiver. EERE also conducted significant amounts of independent research to supplement MEP's scouting efforts, including utilizing the solar experts employed by the Department of Energy's National Renewable Energy Laboratory. EERE's research efforts confirmed the MEP findings that the goods included in this waiver are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

The nonavailability determination is also informed by the inquiries and petitions to EERE from recipients of EERE Recovery Act funds, and from suppliers, distributors, retailers and trade associations—all stating that their individual efforts to locate domestic manufacturers have been unsuccessful.

Having established a proper justification based on domestic nonavailability, EERE hereby provides notice that on August 11, 2010, seven nationwide categorical waivers of section 1605 of the Recovery Act were issued as detailed *supra.* This notice constitutes the detailed written justification required by Section 1605(c) for waivers based on a finding under subsection (b).

This waiver determination is pursuant to the delegation of authority by the Secretary of Energy to the Assistant Secretary for Energy Efficiency and Renewable Energy with respect to expenditures within the purview of her responsibility. Consequently, this waiver applies to EERE projects carried out under the Recovery Act.

Authority: Pub. L. 111–5, section 1605.

Issued in Washington, DC, on August 16, 2010.

Cathy Zoi,

Assistant Secretary for Energy Efficiency and Renewable Energy, U.S. Department of Energy.

[FR Doc. 2010–21116 Filed 8–24–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP10–483–000]

Dominion Transmission, Inc.; Notice of Request Under Blanket Authorization

August 18, 2010.

Take notice that on August 11, 2010, Dominion Transmission, Inc. (Dominion), 120 Tredegar Street, Richmond, Virginia 23219, filed a prior notice request pursuant to sections 157.205, 157.208, and 157.211 of the Commission's regulations under the Natural Gas Act (NGA) for authorization to drill two new wells located in the North Summit Storage Field in Fayette County, Pennsylvania. Specifically, Dominion proposes to drill two new injection/withdrawal wells (UW–209 and UW–210). Dominion states that the certificated physical parameters, including total inventory, reservoir pressure, reservoir and buffer boundaries, and certificated capacity (including injection and withdrawal capacity) of the North Summit Storage Field will remain unchanged with the drilling of the two new wells, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the

"eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding the application should be directed to Amanda K. Prestage, Regulatory and Certificates Analyst, Dominion Transmission, Inc., 701 East Cary Street, Richmond, VA 23219, telephone no. (804) 771–4416, facsimile no. (804) 771–4804 and E-mail: *Amanda.K.Prestage@dom.com.*

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions 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.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–21076 Filed 8–24–10; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2003–0013, FRL–9193–3; EPA ICR No. 2103.04; OMB No. 2040–0253]

Agency Information Collection Activities; Proposed Collection; Comment Request: Title IV of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002: Drinking Water Security and Safety (Act) Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on February 28, 2011. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before October 25, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2003–0013, by one of the following methods:

- *http://www.regulations.gov*: Follow the online instructions for submitting comments.
- *E-mail: OW-Docket@epa.gov.*
- *Mail:* EPA Water Docket, Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OW–2003–0013. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail.

The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Karen Edwards, Water Security Division, Office of Ground Water and Drinking Water, Mailcode: 4608T, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–564–3797; fax number: 202–566–0055; e-mail address: *Edwards.Karen@epa.gov.*

SUPPLEMENTARY INFORMATION:

How can I access the docket and/or submit comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OW–2003–0013, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone for the Water Docket is 202–566–2426. Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document.

What information is EPA particularly interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under the **DATES** section.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What information collection activity or ICR does this apply to?

Affected entities: Entities potentially affected by this action are community water systems serving more than 3,300 persons.

Title: Title IV of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002: Drinking Water Security and Safety (Act).

ICR numbers: EPA ICR No. 2103.04; OMB Control No. 2040–0253.

ICR status: This ICR is currently scheduled to expire on February 28, 2011. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Section 1433 of the Safe Drinking Water Act, as amended by the Bioterrorism Act, requires each community water system serving a population of more than 3,300 people to conduct a vulnerability assessment of its water system and to prepare or revise an emergency response plan that incorporates the results of the vulnerability assessment. These requirements are mandatory under the statute. EPA will continue to use the information collected under this ICR to determine whether community water systems have conducted vulnerability assessments and prepared or revised emergency response plans in compliance with Section 1433. EPA is required to protect all vulnerability assessments and all information derived from them from disclosure to unauthorized parties and has established an Information Protection Protocol describing how that will be accomplished.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 237 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 80.

Frequency of response: Once.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 8,994.

Estimated total annual costs: $77,252. This includes an estimated burden cost of $1,035/respondent and an estimated cost of $16,849 for capital and maintenance/operational costs.

Are there changes in the estimates from the last approval?

There is no decrease in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This reflects EPA's continued need to collect documents that were included in the original estimate, but still have not been submitted to the Agency.

What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under the **FOR FURTHER INFORMATION CONTACT** section.

Dated: August 19, 2010.

Sheila E. Frace,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 2010–21104 Filed 8–24–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2010–0690; FRL–9192–9; EPA ICR No. 0222.09; OMB Control No. 2060–0086]

Agency Information Collection Activities; Proposed Collection; Comment Request; EPA's Light-Duty In-Use Vehicle Testing Program (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on February 28, 2011. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before October 25, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2010–0690, by one of the following methods:

• *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
• *Fax:* (202) 566–1741.
• *Mail:* EPA–HQ–OAR–2010–0690, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
• *Hand Delivery:* Docket Center, (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC 20460. 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–2010–0690. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Lynn Sohacki, Compliance and Innovative Strategies Division, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 2000 Traverwood, Ann Arbor, Michigan 48105; telephone number: 734–214–4851; fax number: 734–214–4869; e-mail address: *sohacki.lynn@epa.gov.*

SUPPLEMENTARY INFORMATION:

How can I access the docket and/or submit comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2010–0690, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air Docket is 202–566–1742.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document.

What information is EPA particularly interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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.

What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES**.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What information collection activity or ICR does this apply to?

Affected entities: Entities potentially affected by this action are owners of light-duty vehicles.

Title: EPA's Light Duty In-Use Vehicle Testing Program (Renewal).

ICR numbers: EPA ICR No. 0222.09, OMB Control No. 2060–0086.

ICR status: This ICR is currently scheduled to expire on February 28, 2011. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: EPA has an ongoing program to evaluate the emission performance of in-use light-duty (passenger car and light truck) motor vehicles. This program operates in conjunction with testing of prototype vehicles prior to use (manufacturer and EPA confirmatory testing for certification) and the mandatory manufacturer's in-use testing program (IUVP) for light-duty vehicles. They derive from the Clean Air Act's charge that EPA insure that motor vehicles comply with emissions requirements throughout their useful lives. The primary purpose of the program is information gathering. Nevertheless, EPA can require a recall if it receives information, from whatever source, including in-use testing, that a "substantial number" of any class or category of vehicles or engines, although properly maintained and used, do not conform to the emission standards,

when in actual use throughout their useful life.

The program can be broken down into three closely-related headings. The first is a surveillance program that selects approximately 50 classes of passenger cars and light trucks for in-use testing, at EPA's testing facility, totaling approximately 150 vehicles (three in each class on average). In rare cases surveillance testing may be followed by compliance testing (only three such classes in the last five years).The purpose of a compliance phase is to develop additional information related to test failures observed in a class during surveillance testing. The second heading is testing of a subset of approximately 35 vehicles from the surveillance recruitment for operation of on-board diagnostics (OBD) systems. The third category is special investigations involving testing of vehicles to address specific issues. The number of vehicles procured under this category varies widely from year to year, but this request asks for approval of the information burden corresponding to 25 such vehicles per year for the next three years.

Participation in the light-duty surveys, as well as the vehicle testing, is strictly voluntary. A group of 25 to 50 potential participants is identified from State vehicle registration records. They are asked to return a postcard indicating their willingness to participate and if so, to verify some limited vehicle information. Three of those who return the card are called and asked about a half dozen questions concerning vehicle condition, and operation and maintenance. Additional groups of potential participants may be contacted until a sufficient number of vehicles has been obtained. Owners verify the survey information when they deliver their vehicles to EPA, voluntarily provide maintenance records for copying, and receive a loaner car and/or a cash incentive.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 7.3 minutes per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR Supporting Statement provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: Approximately 4,285 owners/lessees receive EPA's solicitations to participate and approximately 164 do participate.

Frequency of response: On Occasion.

Estimated total average number of responses for each respondent: One.

Estimated total annual burden hours: 521.

Estimated total annual costs: $11,295. This includes an estimated burden cost of $11,295 and an estimated cost of $0 for capital investment or maintenance and operational costs.

Are there changes in the estimates from the last approval?

There is a decrease of 90 responses and 98 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This decrease is entirely due to removal of the heavy-duty and non-road portions of this ICR, which will henceforth be covered under a different information collection request. This ICR was previously titled, "EPA's In-Use Vehicle and Engine Testing Programs."

What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: August 17, 2010.

Karl Simon,

Director, Compliance and Innovative Strategies Division.

[FR Doc. 2010–21103 Filed 8–24–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0001; FRL–8842–4]

SFIREG Full Committee; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Association of American Pesticide Control Officials (AAPCO), State FIFRA Issues Research and Evaluation Group (SFIREG), Pesticide Operations and Management (POM) Committee will hold a 1–day meeting on September 20, 2010. This notice announces the location and times for the meeting and sets forth the tentative agenda topics.

DATES: The meeting will be held on Monday, September 20, 2010, from 8:30 a.m. to 5 p.m.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at EPA, One Potomac Yard (South Bldg.), 2777 Crystal Dr., Arlington, VA, 1st Floor South Conference Room.

FOR FURTHER INFORMATION CONTACT: Ron Kendall, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5561; fax number: (703) 308–1850; e-mail address: *kendall.ron@epa.gov*,

or

Grier Stayton, SFIREG Executive Secretary, P.O. Box 466, Milford, DE 19963; telephone number (302) 422–8152; fax (302) 422–2435; e-mail address: Grier Stayton at *aapco-sfireg@comcast.net*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are interested in SFIREG information exchange relationship with EPA regarding important issues related to human health, environmental exposure to pesticides, and insight into EPA's decision-making process. You are invited and encouraged to attend the meetings and participate as appropriate. Potentially affected entities may include, but are not limited to:

Those persons who are or, may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetics Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket ID number EPA–HQ–OPP–2010–0001. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr*.

II. Background

The following are tentative agenda topics for the meeting.

1. Transitioning insect repellents from, section 25(b) to section 3 status.

2. Report from the supplemental labeling workgroup.

3. Update on ecological incidents reported to the National Pesticide Information Center (NPIC) portal.

4. FIFRA section 6(a)(2) reports—trends, numbers, major incidents.

5. Response from EPA on SFIREG letter on total release foggers.

6. Soil fumigants: Are we ready for implementation of label changes?

7. Report from EPA on changes to section 24(c) guidance and processes.

III. How Can I Request to Participate in this Meeting?

This meeting is open for the public to attend. You may attend the meeting without further notification.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: August 17, 2010.

Jay S. Ellenberger,

Acting Director, Field and External Affairs Division, Office of Pesticide Programs.

[FR Doc. 2010–20842 Filed 8–24–10; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0699; FRL–8842–8]

Corn Event MON 863 and MON 863 x MON 810; Product Cancellation Order for Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellations of certain products containing the pesticides, *Bacillus thuringiensis* Cry3Bb1 protein and the genetic material necessary for its production (vector PV-ZMIR13L) in MON 863 corn (Organization for Economic Cooperation and Development (OECD) Unique Identifier: MON-ØØ863-5) and/or *Bacillus thuringiensis* Cry1Ab protein and the genetic material necessary for its production (vector PV-ZMCT01) in MON 810 corn (OECD Unique Identifier: MON-ØØ81Ø-6), pursuant to section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This cancellation order will follow the September 30, 2010, expiration of two conditional, time-limited registrations that are listed in Table 1 of Unit II. These are the last products containing *Bacillus thuringiensis* Cry3Bb1 protein and the genetic material necessary for its production (vector PV-ZMIR13L) in MON 863 corn (OECD Unique Identifier: MON-ØØ863-5), but are not the last products containing *Bacillus thuringiensis* Cry1Ab protein and the genetic material necessary for its production (vector PV-ZMCT01) in MON 810 corn (OECD Unique Identifier: MON-ØØ81Ø-6), registered for use in the United States. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellations are effective September 30, 2010.

FOR FURTHER INFORMATION CONTACT: Jeannine Kausch, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–8920; fax number: (703) 305–0118; e-mail address: *kausch.jeannine@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of this Document and Other Related Information?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0699. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

II. What Action is the Agency Taking?

This notice announces the expiration of products registered under FIFRA section 3. Furthermore, this notice serves as a cancellation order and provides terms governing the distribution, sale, and use of existing stocks of the affected products. These registrations are listed in sequence by registration number in Table 1 of this unit.

TABLE 1.—PRODUCT CANCELLATIONS AND REGISTRANT OF THE CANCELLED PRODUCTS

EPA Registration Number	Product Name	EPA Company Number	Company Name and Address
524–528	Corn Event MON 863	524	Monsanto Company, 800 North Lindbergh Blvd., St. Louis, MO 63167
524–545	MON 863 x MON 810	524	Monsanto Company, 800 North Lindbergh Blvd., St. Louis, MO 63167

III. Cancellation Order

The Agency considers the expiration of a conditional, time-limited registration to be a cancellation under FIFRA section 3. This notice, therefore, serves as a cancellation order issued under FIFRA section 3 for the product registrations identified in Table 1 of Unit II. Under this order, and consistent with the expiration date referenced in the **SUMMARY**, the product registrations identified in Table 1 of Unit II. are hereby cancelled effective September 30, 2010. After September 30, 2010, all sales of Corn Event MON 863 and MON 863 x MON 810 seed are prohibited, except as described in Unit IV. regarding existing stocks. Any distribution, sale, or use of the products identified in Table 1 of Unit II. in a manner inconsistent with this order, including the Provisions for Disposition of Existing Stocks set forth in Unit IV., will be considered a violation of FIFRA section 12(a)(2)(K) and/or section 12(a)(1)(A).

IV. Provisions for Disposition of Existing Stocks

Under FIFRA section 6(a)(1), EPA may permit the continued sale and use of existing stocks of a pesticide whose registration has been cancelled. For purposes of this order, "existing stocks" is defined, pursuant to EPA's existing stocks policy published in the **Federal Register** issued on June 26, 1991 (56 FR 29362), as those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment (defined under 40 CFR 152.3) prior to the effective date of the cancellation action. The effective date of these cancellations is September 30, 2010. Pursuant to section 6(a)(1) of FIFRA, this cancellation order that is the subject of this notice includes the following existing stock provisions:

1. Prior to seed shipment through July 1, 2011, Monsanto Company (Monsanto) and persons licensed by Monsanto to produce, use, or distribute MON 863-containing seed may apply seed treatment to, and test for germination in order to comply with Federal and State laws, that seed which has been sold to growers for planting by July 1, 2011.

2. Monsanto and persons licensed by Monsanto to produce, use, or distribute MON 863-containing seed may sell or distribute existing stocks of Corn Event MON 863 and MON 863 x MON 810 seed through July 1, 2011, for planting by July 1, 2011.

3. Existing stocks of Corn Event MON 863 and MON 863 x MON 810 seed can only be planted by July 1, 2011, for the production of a corn crop.

4. An adequate amount of refuge seed must be commercially available to growers to ensure the planting of appropriate corn rootworm and corn borer refuges that are consistent with the previously existing terms and conditions of the Corn Event MON 863 and MON 863 x MON 810 registrations.

5. Monsanto Insect Resistant Management (IRM)/Grower Guides will contain IRM compliance and refuge requirements that are consistent with IRM/Grower Guides required under the previously existing terms and conditions of the Corn Event MON 863 and MON 863 x MON 810 registrations.

6. Any remaining inventory of Corn Event MON 863 and MON 863 x MON 810 seed that has not been sold, distributed, or used by July 1, 2011, will be handled in accordance with legal and regulatory requirements (non-treated seed can be sold as grain, and treated seed must be disposed of properly).

7. Monsanto shall report the following to the Agency:

a. Insect Resistance Management compliance communication and assessment will be reported via the Agricultural Biotechnology Stewardship Technical Committee (ABSTC) Compliance Assurance Program (CAP) in January 2011 for any 2010 planting and in January 2012 for any 2011 planting.

b. Monsanto will submit a Grower Point of Sale (GPOS) Report to EPA in January 2011 for any 2010 sales and in January 2012 for any 2011 sales.

c. Monsanto will submit a Pesticide Use Report to EPA by December 15, 2010, and by December 15, 2011.

d. For the Cry3Bb1 and/or Cry1Ab proteins expressed in Corn Event MON 863 and MON 863 x MON 810, Monsanto will submit results of monitoring and investigations of damage reports in August 2011 for any 2010 planting and in August 2012 for any 2011 planting.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: August 19, 2010.

W. Michael McDavit,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 2010–21137 Filed 8–24–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0306; FRL–8838–8]

Resmethrin; Notice of Receipt of Requests To Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by the registrants to voluntarily cancel all remaining registrations of products containing the pesticide resmethrin. The requests would terminate all resmethrin products registered for use in the United States. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw their requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registration has been canceled only if such sale, distribution, or use is consistent with the terms as described in the final order. Resmethrin users or anyone else that desires the retention of

a resmethrin registration should contact the applicable registrants during the comment period.

DATES: Comments must be received on or before February 22, 2011.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2010–0306, by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2010–0306. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Bonnie Adler, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8523; fax number: (703) 308–7070; e-mail address: *adler.bonnie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background on the Receipt of Requests to Cancel Registrations

This notice announces receipt by EPA of requests from registrants to cancel all resmethrin product registrations. Resmethrin is a member of the pyrethroid class of pesticides. It is used to control a broad spectrum of flying and crawling insects in residential, commercial and industrial settings as well as in animal living areas. It is used as a crack and crevice spray and enclosed space fog in food handling establishments. There are no agricultural uses registered for resmethrin.

The registrants have requested voluntary cancellation of these resmethrin containing products due to the pending cancellation of the technical product. The 2006 Resmethirn Reregistration Eligibility Decision (RED), coupled with the costs to satisfy the recently issued Endocrine Disrupter Screening Program (EDSP) testing orders are not justified by the market opportunity in the vector control business segment or other uses for

resmethrin. In addition, registrants may not formulate their products, as the technical producer of resmethrin has requested a voluntary cancellation of their technical registration. Resmethrin users or anyone else that desires the retention of a resmethrin registration should contact the applicable registrants during the comment period. The data required to support a resmethrin product are identified in Table 1. In addition, the generic data requirements for resmethrin, which are listed in the **Federal Register** of May 19, 2010 (75 FR 28019) (FRL–8825–7), would also be required.

TABLE 1.—DATA REQUIRED TO SUPPORT ALL END USE PRODUCTS OF RESMETHRIN

2006 Resmethrin RED Data Call-In	
830.1550	Product Identity and Composition
830.1600	Description of Materials Used to Produce the Product
830.1620	Description of Production Process
830.1650	Description of Formulation Process
830.1670	Discussion of Formation Impurities
830.1700	Preliminary Analysis
830.1750	Certified Limits
830.1800	Enforcement Analytical Method
830.6302	Color
830.6303	Physical State
830.6304	Odor
830.6313	Stability to Sunlight, Normal & Elevated Temperatures, Metals & Metal Ions
830.6314	Oxidation/Reduction: Chemical Incompatibility
830.6315	Flammability/Flame Extension
830.6316	Explodability
830.6317	Storage Stability of Product
830.6319	Miscibility
830.6320	Corrosion Characteristics
830.6321	Dielectric Breakdown Voltage
830.7000	pH of Water Solution or Suspensions
830.7050	UV/Visible Absorption
830.7100	Viscosity
830.7200	Melting Point/Melting Range (only required if product is a solid)
830.7220	Boiling Point/Boiling Range (only required if product is a liquid)
830.7300	Density/Relative Density
830.7370	Dissociation Constants in Water
830.7520	Particle Size, Fiber Length and Diameter Distribution
830.7550	Partition Coefficient (N-octanol/water), Shake Flask Method
830.7560	Partition Coefficient (N-octanol/water), Generator Column Method
830.7570	Partition Coefficient (N-octanol/water), Estimation by Liquid Chromatography
830.7840	Water Solubility: Column Elution Method or Shake Flask Method (solubility)

TABLE 1.—DATA REQUIRED TO SUPPORT ALL END USE PRODUCTS OF RESMETHRIN—Continued

830.7860	Water Solubility: Generator Column Method (solubility)
830.7950	Vapor Pressure
870.1100	Acute Oral Toxicity
870.1200	Acute Dermal Toxicity
870.1300	Acute Inhalation Toxicity
870.2400	Acute Eye Irritation
870.2500	Acute Dermal Irritation
870.2600	Skin Sensitization
810.3100	Soil Treatments for Imported Fire Ants
810.3200	Livestock, Poultry, Fur- and Wool-Bearing Animal Treatments
810.3300	Treatments to Control Pests to Humans and Pets
810.3400	Mosquito, Black Fly and Biting Midge (Sand Fly) Treatments
810.3500	Premise Treatments
SS-1	Special Study for Arthropods

In letters received by the Agency, the registrants requested EPA to cancel all pesticide product registrations identified in this notice in Table 2. Specifically, the registrants have requested voluntary cancellation of all remaining products containing resmethrin. This action would terminate the use of resmethrin products registered in the United States including its use as a wide area mosquito abatement insecticide.

III. What Action is the Agency Taking?

This notice announces receipt by EPA of requests from registrants to cancel all remaining registrations of products containing the pesticide resmethrin. The affected products and the registrants making the requests are identified in Tables 2 and 3 of this unit.

Unless a request is withdrawn by the registrant or if the Agency determines that there are substantive comments that warrant further review of this request, EPA intends to issue an order canceling the affected registrations.

TABLE 2.—RESMETHRIN PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration Number	Product Name	Chemical
000004-00312	Houseplant Helper	Resmethrin
000004-00337	Bonide Insect Fog	Resmethrin
000004-00373	Bonide Flying and Crawling Insect Spray	Resmethrin Piperonyl Butoxide Pyrethrins
000004-00418	Bonide Pressurized Spray Insecticide 0.25%	Resmethrin
000239-02476	Othro Systemic Rose & Floral Spray	Resmethrin Acephate Triforine
000419-00178	Burgess Insect Frog Fogging Insecticide with Pyrethroid	Resmethrin
000432-00555	SBP-1382 Insecticide 4.22 MF Solvent Dilutable Concentrate Formula I	Resmethrin
000432-00595	SBP-1382 Insecticide Concentrate 40% Formula I	Resmethrin
000432-00596	SBP-1382 Insecticide 40 MF Solvent Dilutable Concentrate Formula I	Resmethrin
000432-00634	Respond with SBP-1382 Liquid Insecticide Spray 0.5% Formula III	Resmethrin
000432-00635	SBP-1382 3% Multipurpose Spray	Resmethrin

TABLE 2.—RESMETHRIN PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration Number	Product Name	Chemical
000432-00667	SCOURGE Insecticide W/ SBP-1382/ Piperonyl Butoxide 18% + 54% MF FORM.II	Resmethrin Piperonyl Butoxide
000432-00716	SCOURGE Insecticide with SPB-1382/ Piperonyl Butoxide 4% + 12% MF FII	Resmethrin Piperonyl Butoxide
000432-00719	SCOURGE Insecticide with SPB-1382/PBO 1.5 + 4.5% Formula II	Resmethrin Piperonyl Butoxide
000432-01097	SYNTHRIN 40% Mosquito Formulation	Resmethrin
000432-01100	PY-SY Concentrate Resmethrin	Resmethrin Pyrethrins
000432-01135	Synthrin .5% Liquid	Resmethrin
000432-01140	Synthrin Plus Pyrenone 415 M.A.G.C.	Resmethrin Piperonyl Butoxide Pyrethrins
000432-01167	Turbicide Pest Control System with Synthrin Butacide	Resmethrin Piperonyl Butoxide
000432-01246	Aqua-Scourge	Resmethrin Piperonyl Butoxide
000498-00116	Chase-MM Flying Insect Killer Formula 2	Resmethrin d-trans-Chrysanthemum monocarboxylic ester of dl-2-allyl-4-hydroxy-3-methyl-2-cyclo-penten-1-one
000498-00117	Chase -MM House and Garden Insect Killer Formula 3	Resmethrin d-trans-Chrysanthemum monocarboxylic ester of dl-2-allyl-4-hydroxy-3-methyl-2-cyclo-penten-1-one
000498-00142	Spray PAK Flea and Tick Killer for Cats & Dogs with Deodorant	Resmethrin
000655-00778	PRENTOX Resmethrin 3%	Resmethrin
000655-00779	PRENTOX Resmethrin 0.5% RTU	Resmethrin
000655-00787	PRENTOX Resmenthin EC3	Resmethrin
001543-00008	Absorbine Supershield II Fly Repellent	Resmethrin Butoxypolypropylene glycol
001543-00009	Absorbine Concentrated Fly Repellent	Resmethrin Butoxypolypropylene glycol
002724-00527	SPEER Home and Garden Pressurized Spray	Resmethrin d-trans-Chrysanthemum monocarboxylic ester of dl-2-allyl-4-hydroxy-3-methyl-2-cyclo-penten-1-one
003862-00080	TERMINATOR	Resmethrin
005481-00154	SBP-1382 - 2 E. C.	Resmethrin
007056-00180	CSA Aerosol Insecticide Formula Seven	Resmethrin
008536-00031	Premium Grade Card-O-SectT #25	Resmethrin
008536-00032	NE-1 Insecticide	Resmethrin
008536-00034	Cardinal 3% ULV Insecticide	Resmethrin
028293-00095	Unicorn Thermfog RTU	Resmethrin
028293-00100	Unicorn Wasp & Hornet Killer	Resmethrin

TABLE 2.—RESMETHRIN PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration Number	Product Name	Chemical
028293-00107	Unicorn Liquid Insect Killer No. 2	Resmethrin
028293-00152	Unicorn Flea & Tick Spray IV	Resmethrin d-trans-Chrysanthemum monocarboxylic ester of dl-2-allyl-4-hydroxy-3-methyl-2-cyclopenten-1-one
040391-00004	Resmethrin Insect Spray	Resmethrin
040391-00005	AUTO FOG-5	Resmethrin
040391-00011	AUTO FOG-10	Resmethrin
040391-00012	AUTO FOG-30	Resmethrin
044446-00008	Duel Flying & Crawling Insect Killer	Resmethrin
044446-00019	HAWK Thermfog	Resmethrin
045385-00027	Fogging Insecticide	Resmethrin
045385-00078	CENOL Mill Spray with SBP-1382	Resmethrin
045385-00080	CENOL Kill Quick 2% Emulsifiable Concentrate	Resmethrin
045385-00081	CENOL Liquid House Plant Insecticide	Resmethrin Piperonyl Butoxide Pyrethrins
046579-00002	Resmethrin 5 Contact and Space Spray	Resmethrin
046579-00009	Resmethrin 1 Contact and Space Spray	Resmethrin
046579-00010	Resmethrin ULV 3-9 Multipurpose Spray	Resmethrin Piperonyl Butoxide
046579-00011	Resmethrin 5-1.5 Contact and Space Spray	Resmethrin Piperonyl Butoxide
046579-00012	Resmethrin ULV 3 Multipurpose Spray	Resmethrin
046813-00061	Wasp & Hornet Killer II	Resmethrin
047000-00079	Flyers Insecticide	Resmethrin d-trans-Chrysanthemum monocarboxylic ester of dl-2-allyl-4-hydroxy-3-methyl-2-cyclopenten-1-one
047000-00083	Freez-Kill	Resmethrin
047000-00099	Flyer's Insecticide	Resmethrin d-trans-Chrysanthemum monocarboxylic ester of dl-2-allyl-4-hydroxy-3-methyl-2-cyclopenten-1-one
047000-00132	Wasp & Hornet Insect Bomb	Resmethrin
048668-00004	PPP Flea and Tick Shampoo	Resmethrin
048668-00005	PPP Flea & Tick Spray	Resmethrin
053883-00147	Commercial Fogging Spray	Resmethrin
067517-00013	Space Mist Insecticide	Resmethrin
073049-00078	SBP-1382 Concentrate 40	Resmethrin
073049-00079	SBP-1382 Insecticde Concentrate 15%	Resmethrin
073049-00080	SBP-1382 Pressurized Wasp & Hornet Spray 0.15%	Resmethrin

TABLE 2.—RESMETHRIN PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration Number	Product Name	Chemical
073049-00081	SBP-1382 Aqueous Pressurized Spray Insecticide 0.50%	Resmethrin
073049-00082	SBP-1382 Insecticide Aqueous Pressurized Spray 0.25%	Resmethrin
073049-00083	SBP-1382 Insecticide Aqueous Pressurized 0.35% for House & Garden	Resmethrin
073049-00084	Your Brand SBP-1382 Insecticide Spray 0.10	Resmethrin
073049-00085	SBP-1382/Bioallethrin Aqueous Pressurized Spray	Resmethrin d-trans-Chrysanthemum monocarboxylic ester of dl-2-allyl-4-hydroxy-3-methyl-2-cyclopenten-1-one
073049-00086	SBP-1382 Technical with Antioxidant	Resmethrin
073049-00087	SBP-1382 Bioallethrin Insecticide Conc. 10% - 7.5% FORMULA I	Resmethrin
073049-00088	SBP-1382 Aqueous Press Spray Insect. 0.25/ House & Garden	Resmethrin
073049-00089	SBP - 1382 Yard and Patio Outdoor Fogger	Resmethrin
073049-00090	SBP-1382 Oil Base Insecticide 0-20%	Resmethrin
073049-00091	Bioresmethrin Liquid Insecticide Spray 0.25% Formula I	Resmethrin
073049-00092	Your Brand SBP-1382/Bioallethrin (.20% + .125%) Aqueous Press. Spray for H&G	Resmethrin S-Bioallethrin
073049-00095	SBP-1382/Bioallethrin Insecticide Concentrate 10%-6.25% Formula I	Resmethrin S-Bioallethrin
073049-00097	SBP-1382 0.35% Space and Residual Aqueous Pressurized Spray	Resmethrin
073049-00098	SBP-1382 Insecticide Concentrate 12% Formula I with Residual Activity	Resmethrin
073049-00100	SBP-1382 Insecticide Concentrate 12.5% Formula I	Resmethrin
073049-00101	SBP-1382 T.E.C. 6%	Resmethrin
073049-00102	SBP-1382/Bioallethrin Aqueous Pressurized Spray (PD 6.5)	Resmethrin d-trans-Chrysanthemum monocarboxylic ester of dl-2-allyl-4-hydroxy-3-methyl-2-cyclopenten-1-one
073049-00103	SBP-1382/Bioallethrin Insecticide Concentrate 8%-16% Formula I	Resmethrin S-Bioallethrin
073049-00106	SBP-1382 Insecticide Transparent Emulsion Spray 0.35%	Resmethrin
073049-00107	ULTRATEC Insecticide W/SPB-1382 Tran. Emul. Dil. Conc. 2%	Resmethrin
073049-00108	SBP-1382 Aqueous Pressurized Spray Insecticide 0.25%	Resmethrin
073049-00109	SBP-1382 Residual Aqueous Presurized Ant and Roach Spray 0.35%	Resmethrin
073049-00110	SBP-1382 Insecticide Transparent Emulsion Spray 0.25%	Resmethrin
073049-00111	SBP-1382 Liquid Spray 0.50%	Resmethrin

TABLE 2.—RESMETHRIN PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration Number	Product Name	Chemical
073049-00112	SBP-1382 Liquid Insecticide Spray 0.5% Formula I	Resmethrin
073049-00113	Vectrin Four-Plus-One	Resmethrin Piperoyl Butoxide Pyrethrins
073049-00131	SBP-1382 Insecticide Emulsifiable Concentrate 26%	Resmethrin
073049-00132	SBP-1382 Insecticide Emulsfiable 26% Formula I For Repackaging Use	Resmethrin
073049-00133	SBP-1382 Concentrate 16% Formula III	Resmethrin
073049-00134	SBP 1382 Insecticide Concentrate 40% Formula II	Resmethrin
073049-00135	SBP-1382/Esbioallethrin/P.B.O Insecticide Aq. Press Spray 0.20% + 0.10% +	Resmethrin Piperoyl Butoxide d-trans-Chrysanthemum monocarboxylic ester of dl-2-allyl-4-hydroxy-3-methyl-2-cyclopenten-1-one
073049-00140	Crossfire Concentrate 1 W/SBP-1382/Esbioth./Pip.But. 8.34%-4.17%-16.67% For.I	Resmethrin Piperoyl Butoxide d-trans-Chrysanthemum monocarboxylic ester of dl-2-allyl-4-hydroxy-3-methyl-2-cyclopenten-1-one
073049-00142	SBP-1382 Oil Base Insecticide 0.20% Formula III	Resmethrin
073049-00143	SBP-1382 Liquid Insecticide Spray 0.25% Formula III	Resmethrin
073049-00144	SBP-1382 Insecticide Press. Spray 0.25% Formula III for Wasps & Hornet	Resmethrin
073049-00148	SBP-1382/Esbiothrin/P.B. Insecticide Conc. 3%-4.5%-18% Formula II	Resmethrin Piperoyl Butoxide d-trans-Chrysanthemum monocarboxylic ester of dl-2-allyl-4-hydroxy-3-methyl-2-cyclopenten-1-one
073049-00164	Tetralate Butacide (15-7.5-15) W-B Concentrate	Resmethrin Tetramethrin Piperoyl Butoxide
073049-00165	Tetralate-Butacide Insect Killer WBA N109	Resmethrin Tetramethrin Piperoyl Butoxide
073049-00190	SBP-1382/PYR./P.B.O. Transparent Emuls. Spray 0.08 + 0.02 + 0.02%	Resmethrin Piperoyl Butoxide Pyrethrins
073049-00206	Blanco 0.2 Liquid Insecticide Spray	Resmethrin
073049-00207	Ford's SBP-1382 Insecticide Transparent Emulsion Spray 0.25%	Resmethrin
073049-00208	CSA House and Garden Spray	Resmethrin
073049-00209	Ford's Commercial Spray	Resmethrin
073049-00230	NIA 17370 Insecticide Spray 0.05	Resmethrin
073049-00231	Synthrin Aqueous Pressurized Spray Insecticide 0.50	Resmethrin

TABLE 2.—RESMETHRIN PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration Number	Product Name	Chemical
073049-00232	Synthrin House and Garden Insecticide Spray 0.25%	Resmethrin
073049-00233	Tetralate 25–10.6 WB	Resmethrin Tetramethrin
073049-00234	Tetramethrin 2.5 FMC 17370 1.06 DWB Concentrate	Resmethrin Tetramethrin
073049-00255	Tetralate Multipurpose Insect Killer	Resmethrin Tetramethrin
073049-00259	Tetralate 2.0–0.44 WB	Resmethrin Tetramethrin
073049-00260	Tetramethrin 26.64 NIA 17370 5.85 WB Concentrate	Resmethrin Tetramethrin
073049-00262	Tetralate General Purpose 0.25%–0.25% Insect Killer	Resmethrin Tetramethrin
073049-00263	Tetralate 2.5–2.5 WB	Resmethrin Tetramethrin
073049-00264	Tetralate 16.670–7.0655	Resmethrin Tetramethrin
073049-00265	Tetralate 20.84–20.84 W.B.	Resmethrin Tetramethrin
073049-00276	Synthrin House and Garden Insecticide 0.25%	Resmethrin
073049-00357	SBP-1382 Micro-Min Insecticide Spray 0.5% with Mineral Oil	Resmethrin
073049-00358	SBP-1382 Insecticide Concentrate 3%	Resmethrin
073049-00372	Synthrin Technical with Antioxidant Insecticide	Resmethrin
073049-00381	Exterm-A-Vape	Resmethrin
074621-00002	Bug Stomper 4-3	Resmethrin d-trans-Chrysanthemum monocarboxylic ester of dl-2-allyl-4-hydroxy-3-methyl-2-cyclopenten-1-one
081038-00001	Skeet-Daddle Fogging Insecticide	Resmethrin
082277-00001	RG Vaporizing Aerosol	Resmethrin
FL 910017	SBP-1382 Insecticide 40 MF Solvent Dil. Conc. Form. 1	Resmethrin

Table 3 of this unit includes the names and addresses of record for the registrants of the products listed in Table 2 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed above.

TABLE 3.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company Number	Company Name and Address
000004	Bonide Products, Inc. Agent Registrations By Design, Inc. P.O. Box 1019 Salem, VA 24153–3805

TABLE 3.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company Number	Company Name and Address
000239	The Scotts Company 14111 Scottslawn Road Marysville, OH 43041

TABLE 3.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company Number	Company Name and Address
000419	CTX Cenol 7210 Red Rd., Suite 206 A Miami, FL 33143
000432	Bayer Environmental Science P.O. Box 12014 Research Triangle Park, NC 27709
000498	Chase Products Co. P.O. Box 70 Maywood, IL 60153
000655	Prentiss, Inc. 3600 Mansell Rd. Suite 350 Alpharetta, GA 30022
001543	W.F. Young, Inc. 302 Benton Drive East Longmeadow, MA 01028
002724	Wellmark International 1501 E. Woodfield Rd, Suite 200 West Schaumburg, IL 60173
003862	ABC Compounding Co., Inc. P.O. Box 16247 Atlanta, GA 30321–0247
005481	Amvac Chemical Corporation 4695 MacArthur Court, Suite 1250 Newport Beach, CA 92660
007056	IQ Products Co. 16212 State Hwy 249 Houston, TX 77086–1014
008536	Soils Corporation P.O. Box 782 Hollister, CA 95024–0782
028293	Phaeton Corporation Agent Registrations By Design, Inc. P.O. Box 1019 Salem, VA 24153

TABLE 3.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company Number	Company Name and Address
040391	Entech Systems Corporation 509 Tower Valley Drive Hillsboro, MO 63050
044446	Quest Chemical Corporation 12255 F.M. 529 Northwoods Industrial Park Houston, TX 77041
045385	CTX Cenol 7210 Red Road, Suite 206A Miami, FL 33143
046579	Dickson Chemical Company, Inc. 2110 S Prairie St. Stuttgart, AR 72160
046813	K-G Packaging Company 316 Highland Ave Hartford, WI 53027
047000	Chem-Tech, LTD. 4515 Fleur Dr. 303 Des Moines, IA 50321
048668	Professional Pet Products 1873 N.W. 97th Ave. Miami, FL 33172
053883	Control Solutions Inc. 427 Hide Away Circle Cub Run, KY 42729
067517	PM Resources, Inc. 13001 Saint Charles Rock Rd. Bridgeton, MO 63044
073049	Valent BioSciences Corporation 870 Technology Way Libertyville, IL 60048
074621	Bug Stomper II, LLC P.O. Box 704 Springhill, LA 71075
081038	ICR Labs., 1330 Dillon Heights Ave. Baltimore, MD 21228–1199

TABLE 3.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company Number	Company Name and Address
082277	Earthfire Corp. P.O. Box 12398 Scottdsdale, AZ 85267
FL910017	Lee County Mosquito Control District P.O. Box 60005 Fort Meyers, FL 33096

IV. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30–day public comment period on the request for voluntary cancellation or use termination. In addition, section 6(f)(1)(C) of FIFRA requires that EPA provide a 180–day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The resmethrin registrants have not requested that EPA waive the 180–day comment period. Accordingly, EPA will provide a 180–day comment period on the proposed requests.

V. Procedures for Withdrawal of Requests

Registrants who choose to withdraw a request for product cancellation should submit the withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the action. If the request(s) for voluntary cancellation are granted, the Agency intends to publish the cancellation order in the **Federal Register**.

In any order issued in response to these requests for cancellation of product registrations, EPA proposes to include the following provisions for the treatment of any existing stocks of the products listed in Table 2.

After December 31, 2012, registrants are prohibited from formulating, selling, or distributing existing stocks of products containing resmethrin for all uses, including the use of resmethrin as a wide area mosquito abatement insecticide.

Persons other than the registrant may sell, distribute, or use existing stocks of canceled products until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: August 19, 2010.

Peter Caulkins,

Acting Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2010–21143 Filed 8–24–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0623; FRL–8843–1]

Fenoxycarb; Notice of Receipt of Request To Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel registrations of products containing the pesticide fenoxycarb. The request would terminate the last fenoxycarb products registered for use in the United States. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the request, or unless a registrant withdraws its request. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registrations have been canceled only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before September 24, 2010.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2010–0623, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2010–0623. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Katie Weyrauch, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–0166; fax number: (703) 308–8090; e-mail address: *weyrauch.katie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through

regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background on the Receipt of Requests to Cancel Registrations

This notice announces receipt by EPA of requests from registrants Syngenta Crop Protection, Inc. and Whitmire Micro-Gen Research Laboratories, Inc. to cancel fenoxycarb product registrations. Fenoxycarb is an *O*-ethyl carbamate derivative insecticide used to control fire ants and big-headed ants on turf, home lawns, agricultural areas, non-agricultural areas, horse farms, and ornamental nursery stock, among other areas. Fenoxycarb is also used to control a variety of insects in greenhouses in a total release fogger product. In letters received by the Agency, Syngenta Crop Protection, Inc. and Whitmire Micro-Gen Research Laboratories, Inc. requested EPA to cancel pesticide product registrations identified in Table 1 of Unit III. This request for voluntary cancellation was submitted in response to the data call-in issued for the Registration Review of fenoxycarb. This action on the registrants' requests will terminate the last fenoxycarb products registered in the United States.

III. What Action is the Agency Taking?

This notice announces receipt by EPA of requests from registrants to cancel fenoxycarb product registrations. The affected products and the registrants making the requests are identified in Tables 1 and 2 of this unit.

Unless a request is withdrawn by the registrant or if the Agency determines that there are substantive comments that warrant further review of this request, EPA intends to issue an order canceling the affected registrations. The cancellation of the technical product (product number 100–723) will be effective upon publication of the final cancellation order. The cancellation of the end-use product number 499–437 will be effective upon publication of the final cancellation order. The cancellation of the end-use product number 100–722 will be effective December 31, 2012.

TABLE 1.—FENOXYCARB PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration Number	Product Name	Company
100–722	Award Fire Ant Bait	Syngenta Crop Protection, Inc.
100–723	Fenoxycarb Technical	Syngenta Crop Protection, Inc.
499–437	Whitmire PT 2120 TF Prelcude	Whitmire Micro-Gen Research Laboratories, Inc.

Table 2 of this unit includes the name and address of record for the registrant of the products listed in Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1 of this unit.

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION AND/OR AMENDMENTS

EPA Company Number	Company Name and Address
100	Syngenta Crop Protection, Inc. PO Box 18300 Greensboro, NC 27419–8300
499	Whitmire Micro-Gen Research Laboratories, Inc. 3568 Tree Court Industrial Blvd. St. Louis, MO 63122–6682

IV. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30–day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) requires that EPA provide a 180–day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The fenoxycarb registrants have requested that EPA waive the 180–day comment period. Accordingly, EPA will provide a 30–day comment period on the proposed requests.

V. Procedures for Withdrawal of Requests

Registrants who choose to withdraw a request for product cancellation or use deletion should submit the withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. If the requests for voluntary cancellation are granted, the Agency intends to publish the cancellation order in the **Federal Register**.

In any order issued in response to these requests for cancellation of product registrations, EPA proposes to include the following provisions for the treatment of any existing stocks of the products listed in Table 1 of Unit III.

Syngenta Crop Protection, Inc. may formulate existing stocks of product number 100–723 into end-use product until supplies of product number 100–723 are exhausted. Syngenta Crop Protection, Inc. will be permitted to sell and distribute end-use product (product number 100–722) until December 31, 2012, the effective date of the cancellation of product number 100–722. Thereafter, Syngenta Crop Protection, Inc. will be prohibited from selling or distributing the product number 100–722, except for export consistent with FIFRA section 17 or for proper disposal.

Whitmire Micro-Gen Research Laboratories, Inc. will be permitted to sell and distribute existing stocks of voluntarily canceled end-use product (product number 499–437) until December 31, 2013. Thereafter, Whitmire Micro-Gen Research Laboratories, Inc. will be prohibited from selling or distributing product number 499–437, except for export consistent with FIFRA section 17 or for proper disposal.

Persons other than the registrants may sell, distribute, or use existing stocks of the canceled products listed in Table 1 of Unit III, until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: August 18, 2010.

Peter Caulkins,

Acting Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2010–21145 Filed 8–24–10; 8:45 am]

BILLING CODE 6560–50–S

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Final Comment Request

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final notice on information collected under review; ADEA waivers.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Commission gives notice that it has submitted to the Office of Management and Budget (OMB) a request for an extension without change of the existing information collection requirements under 29 CFR 1625.22, Waivers of rights and claims under the Age Discrimination in Employment Act (ADEA).

DATES: Written comments on this notice must be submitted on or before September 24, 2010.

ADDRESSES: The Request for Clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from: James G. Allison, Senior Attorney, Office of Legal Counsel, 131 M Street, NE., Washington, DC 20507. Comments on this final notice must be submitted to Chad A. Lallemand, 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 submitted to Stephen Llewellyn, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 131 M Street, NE., Suite 6NE03F, Washington, DC 20507. Comments of six or fewer pages may be faxed to the EEOC's 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 by calling the Executive Secretariat staff at (202) 663–4070 (voice) or (202) 663–4074 (TTY). (These are not toll free numbers.) Instead of sending written comments to EEOC, comments may be submitted to EEOC electronically on the Federal eRulemaking Portal: *http://www.regulations.gov.* After accessing this Web site, follow its directions for submitting comments. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information that you provide. Copies of the received comments also will be available for inspection, by advance appointment only, in the EEOC Library from 9 a.m. to 5 p.m., Monday through Friday except legal holidays. Persons who schedule an appointment in the EEOC Library and need assistance to view the documents will be provided with appropriate aids upon request, such as readers or print magnifiers. To schedule an appointment to inspect the comments at the EEOC Library, contact the EEOC Library by calling (202) 663–4630 (voice) or (202) 663–4641 (TTY). (These are not toll free numbers.)

FOR FURTHER INFORMATION CONTACT: Thomas J. Schlageter, Assistant Legal Counsel, (202) 663–4668, or James Allison, Senior Attorney, (202) 663–4661, 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 audiotape. Requests for this notice in an alternative format should be made to the Publications Center at 1–800–699–3362 (voice), 1–800–3302 (TTY), or 702–821–2098 (FAX—this is not toll free).

SUPPLEMENTARY INFORMATION:

Overview of This Information Collection

Collection title: Informational requirements under Title II of the Older Workers Benefit Protection Act of 1990 (OWBPA), 29 CFR 1625.22.

Frequency of report: None required.

OMB number: 3046–0042.

Type of respondent: Business, state or local governments, not-for-profit institutions.

Description of affected public: Any employer with 20 or more employees that seeks waiver agreements in connection with exit incentive or other employment termination program.

Number of responses: 28,030.

Reporting hours: 42,045.

Number of forms: None.

Burden statement: The only paperwork involved is the inclusion of the relevant data in requests for waiver agreements under the OWBPA.

Abstract: The EEOC enforces the Age Discrimination in Employment Act (ADEA) which prohibits discrimination against employees and applicants for employment who are age 40 or older. The OWBPA, enacted in 1990, amended the ADEA to require employers to disclose certain information to employees (but not to the EEOC) in writing when the employers ask employees to waive their rights under the ADEA in connection with an exit incentive program or other employment termination program. The regulation at 29 CFR 1625.22 reiterates those

disclosure requirements. The EEOC seeks an extension without change for the third-party disclosure requirements contained in this regulation. On June 17, 2010, the Commission published a 60-Day Notice informing the public of its intent to request an extension of the information collection requirements from the Office of Management and Budget. 75 FR 34449 (June 17, 2010). No comments were received.

Dated: August 19, 2010.

Jacqueline A. Berrien,

Chair, U.S. Equal Employment Opportunity Commission.

[FR Doc. 2010–21086 Filed 8–24–10; 8:45 am]

BILLING CODE 6570–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 8, 2010.

A. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Clint Edwin Shepard II, individually, and as trustee of the Clint Edwin Shepard II Trust, both of Oak Ridge, Louisiana, and Virginia Sue Barr, individually, and as trustee of the Virginia Sue Shepard Barr Trust, both of Oak Ridge, Louisiana, to acquire control of Oak Ridge Bancshares, Inc., and indirectly acquire control of Bank of Oak Ridge, both of Oak Ridge, Louisiana.

Board of Governors of the Federal Reserve System, August 19, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–21021 Filed 8–24–10; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 9, 2010.

A. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Mason National Bancshares, Inc.; to engage *de novo* through its subsidiary, Mason National Bank, both of Mason, Texas, in lending activities pursuant to section 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, Augusts 20, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–21083 Filed 8–24–10; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. A copy of the agreement is available through the Commission's Web site (*http://www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 201207–001.

Title: Terminal 6 Lease Agreement Between the Port of Portland and ICTSI Oregon, Inc.

Parties: Port of Portland and ICTSI Oregon, Inc.

Filing Party: Paul D. Coleman, Esq.; Hoppel, Mayer & Coleman; 1050 Connecticut Avenue, NW., 10th Floor; Washington, DC 20036.

Synopsis: The amendment changes the commencement date of the agreement to February 12, 2011, updates terminal contracts, and updates the list of terminal assets to be transferred to the Lessee under the agreement.

By Order of the Federal Maritime Commission.

Dated: August 20, 2010.

Karen V. Gregory,

Secretary.

[FR Doc. 2010–21156 Filed 8–24–10; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for a license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF)—Ocean Transportation Intermediary (OTI) pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR 515). Notice is also hereby given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a license.

Interested persons may contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Allen Lund Company, Inc. (NVO & OFF), 4529 Angeles Crest Highway, Suite 300, La Canada, CA 91011, Officers: Ernest V. Valdez, Vice President of International (Qualifying Individual), David A. Lund, President/COB, Application Type: QI Change.

BestOcean Worldwide Logistics, Inc. (OFF & NVO), 1300 Valley Vista Drive, Suite 203, Diamond Bar, CA

91765, Officers: Xiao Chun Li, Vice President (Qualifying Individual), Yan Yang, CEO, Application Type: New NVO & OFF License.

Cargologic USA LLC (NVO & OFF), 182–16 149th Road, #212, Springfield Gardens, NY 11413, Officers: Donald L. Crummet, Jr., Vice President (Qualifying Individual), Alex Epshteyn, President, Application Type: New NVO & OFF License.

Concept Cargo Freight & Logistic Inc (NVO), 8952 NW 24 Terrace, Doral, FL 33172, Officers: Marcos A. Bacan, President (Qualifying Individual), Milton A. Rocha, Vice President/Treasurer/Secretary, Application Type: New NVO License.

Finlay's International Shipping and Trade, Inc. (NVO), 2745 1st Place, Baldwin, NY 11510, Officer: Wendy A. Finlay, President (Qualifying Individual), Application Type: New NVO License.

Kesco Logistics, Inc. (NVO), 156–15 146th Avenue, Jamaica, NY 11434, Officers: Geoffrey Tice, President (Qualifying Individual), Cyndia Chan, Secretary/Treasurer, Application Type: New NVO License.

Muches Global Industries Inc. (NVO & OFF), 10535 Rockley Road, #104, Houston, TX 77099, Officers: Asinobi O. Amadi, President (Qualifying Individual), Queen Amadi, Vice President, Application Type: New NVO & OFF License.

Nelcon Cargo Corp. (NVO), 1970 NW 82nd Avenue, Miami, FL 33126, Officers: Xenia Perez, President/Vice President/Treasurer, Nydia Bermudez, Secretary (Qualifying Individuals), Application Type: QI Change.

Realco Transporation Group USA, Inc. (NVO), 370 Amapola Avenue, Suite 108, Torrance, CA 90501, Officers: Karen Cheng, Secretary (Qualifying Individual), Raymond Tu, Chairman/Director, Application Type: New NVO License,

United Marine Lines, L.L.C. (NVO), 201 Sevilla Avenue, #309, Coral Gables, FL 33134, Officers: Eduardo Del Riego, Manager (Qualifying Individual), Robert Boucek, Vice President/Treasurer, Application Type: New NVO License.

Dated: August 20, 2010.

Karen V. Gregory,

Secretary.

[FR Doc. 2010–21157 Filed 8–24–10; 8:45 am]

BILLING CODE P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515, effective on the corresponding date shown below:

License Number: 4020F.

Name: Southern Cross Shipping, Inc.

Address: 6440 NW 2nd Street, Miami, FL 33126.

Date Revoked: August 4, 2010.

Reason: Surrendered license voluntarily.

License Number: 002148N.

Name: Jagremar Marine, Inc.

Address: 15600 Morales Road, Houston, TX 77032.

Date Revoked: August 4, 2010.

Reason: Surrendered license voluntarily.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2010–21158 Filed 8–24–10; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuance

Notice is hereby given that the following Ocean Transportation Intermediary license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/address	Date reissued
000641F	Wilmoth Fast Forwarding, Inc., 13302 Michaelangelo Drive, Bakersfield, CA 93314	July 24, 2010.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2010–21161 Filed 8–24–10; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 10–09]

Sinicway International Logistics Ltd. Possible Violations of Sections 10(A)(1) and 10(B)(2) of the Shipping Act of 1984; Order of Investigation and Hearing

Sinicway International Logistics Ltd. (Sinicway) is a company based in the People's Republic of China, providing service as a non-vessel-operating common carrier (NVOCC). Sinicway registered with the FMC as a foreign-based NVOCC in April 2009. Sinicway's reported address is 910 The Panorama, 53 Huangpu Road, Shanghai, PRC 200080.

Sinicway currently holds itself out as a NVOCC pursuant to its automated tariff No. 022155–001. Its tariff is maintained by Distribution Publications, Inc., and is published electronically at *https://www.dpiusa.com.* Sinicway currently maintains a NVOCC bond with Navigators Insurance Company, 6 International Drive, Rye Brook, NY 10573.

It appears that after registering with the FMC in April 2009, Sinicway originated and substantially participated in an ongoing practice of misdescribing cargo to the transporting ocean common carrier. With respect to those shipments apparently misdescribed, Sinicway was identified as the shipper signatory to various service contracts with ocean common carriers [1] and as the person for whose account the transportation was being provided. Contemporaneous documentation such as the commercial invoice or the NVOCC house bill of lading reflect that shipments declared to the vessel operator as "bedding" or "household goods" actually were loaded with garments or with miscellaneous other commodities. Due to the difference between the rate Sinicway paid to ship the misdescribed goods and the rate at which the cargo should have moved under the various service contracts used by Sinicway, it appears that Sinicway obtained lower than applicable rates for these shipments, in violation of section 10(a)(1) of the Shipping Act.

[1] As relevant herein, these contracts include, but are not limited to: OOCL SC #PE094178, OOCL SC #PE104178, MOL SC #4199876A09, MOL SC #4199896A10.

It also appears that for some of these same shipments, Sinicway acted as a common carrier in relation to its NVOCC customers and issued its own NVOCC bill of lading. The electronic tariff published by Sinicway appears to indicate that only Cargo NOS rates were in effect since July 17, 2009. However, as indicated by Sinicway's invoices, the rate assessed by Sinicway to its NVOCC customers appears to differ substantially from its published Cargo NOS rates. Accordingly, it appears that Sinicway provided service that was not in accordance with its published tariff, in violation of 10(b)(2) of the Shipping Act.

Now therefore, it is ordered, That pursuant to sections 10, 11, and 13 of the Shipping Act, 46 U.S.C. 41102, 41104, and 41107–41109, an investigation is instituted to determine:

(1) Whether Sinicway International Logistics Ltd. violated section 10(a)(1) of the Shipping Act by obtaining transportation at less than the rates and charges otherwise applicable by an unjust or unfair device or means;

(2) Whether Sinicway International Logistics Ltd. violated section 10(b)(2) of the Shipping Act by providing service other than at the rates, charges, and classifications set forth in its published NVOCC tariff or applicable NSA;

(3) Whether, in the event violations of sections 10(a)(1), and 10(b)(2) of the Shipping Act are found, civil penalties should be assessed against Sinicway International Logistics Ltd. and, if so, the amount of penalties to be assessed;

(4) Whether, in the event violations of section 10(b)(2) of the Shipping Act are found, the tariff(s) of Sinicway International Logistics Ltd. should be suspended; and

(5) Whether, in the event violations are found, an appropriate cease and desist order should be issued.

It is further ordered, that a public hearing be held in this proceeding and that this matter be assigned for hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Administrative Law Judge in compliance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding Administrative Law Judge only after consideration has been given by the parties and the presiding Administrative Law Judge to the use of alternative forms of dispute resolution, and upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, that Sinicway International Logistics Ltd. is designated Respondent in this proceeding;

It is further ordered, that the Commission's Bureau of Enforcement is designated a party to this proceeding;

It is further ordered, that notice of this Order be published in the **Federal Register**, and a copy be served on parties of record;

It is further ordered, that other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.72;

It is further ordered, that all further notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be served on parties of record;

It is further ordered, that all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573, in accordance with Rule 118 of the Commission's Rules of Practice and Procedure, 46 CFR 502.118, and shall be served on parties of record; and

It is further ordered, that in accordance with Rule 61 of the Commission's Rules of Practice and Procedure, the initial decision of the Administrative Law Judge shall be issued by August 22, 2011 and the final decision of the Commission shall be issued by December 20, 2011.

By the Commission.

Karen V. Gregory,

Secretary.

[FR Doc. 2010–21172 Filed 8–24–10; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–New]

Agency Information Collection Request. 60-Day Public Comment Request

AGENCY: Office of the Secretary, Office of the National Coordinator for Health Information Technology (ONC), HHS

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed information collection request for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden. To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov,* or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be directed to the OS Paperwork Clearance Officer at the above e-mail address within 60 days.

Proposed Project: Evaluation of the IT Professionals in Health Care—OMB No. 0990—NEW—Office of the National Coordinator for Health Information Technology (ONC).

Abstract: The Office of the National Coordinator for Health Information Technology (ONC) Office of the Chief Scientist is soliciting comments on a series of data collection efforts for the Evaluation of the IT Professionals in Health Care. The Workforce Program, created under Section 3016 of the HITECH Act, was intended to provide "assistance to institutions of higher education (or consortia thereof) to establish or expand health informatics education programs, including certification, undergraduate, and masters degree programs, for both health care and information technology students." The evaluation of the Workforce Program is a new information collection activity which will explore program challenges, provide critical formative feedback to the Workforce grantee institutions on their activities, and determine whether the Workforce Program overall was successful in helping to build a skilled workforce equipped to meet the heightened demands of the current environment. The data collection efforts include: A Web-based baseline survey of community college students; course evaluation forms; focus groups with

students, faculty members, and competency exam takers; and a Web-based survey of community college faculty.

ESTIMATED ANNUALIZED BURDEN TABLE

Forms	Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Web-based student baseline survey	Students enrolled in workforce program	1,350	1	20/60	450
Focus groups with students	Students enrolled in workforce program	256	1	1.5	384
Focus groups with faculty	Instructors from workforce program	50	1	1.5	75
Focus groups with exam takers	Competency exam takers not enrolled in workforce program	32	1	1.5	48
Web-based faculty survey	Instructors from workforce program	300	1	10/60	50
Total					1,007

Seleda Perryman,

Office of the Secretary, Paperwork Reduction Act Clearance Officer.

[FR Doc. 2010–21070 Filed 8–24–10; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary for Health have taken final action in the following case:

Elizabeth Goodwin, PhD, University of Wisconsin-Madison: Based on the report of an investigation conducted by the University of Wisconsin-Madison (UW-M) and additional analysis conducted by ORI in its oversight review, the U.S. Public Health Service (PHS) found that Elizabeth Goodwin, PhD, former associate professor of genetics and medical genetics, UW-M, engaged in scientific misconduct while her research was supported by National Institute of General Medical Sciences (NIGMS), National Institutes of Health (NIH), grants R01 GM051836 and R01 GM073183.

PHS found that the Respondent engaged in misconduct in science by falsifying and fabricating data that she included in grant applications 2 R01 GM051836–13 and 1 R01 GM073183–01.

PHS found that in grant application 2 R01 GM051836–13, Respondent knowingly and intentionally:

- Falsified Figures 5A and 5B by reusing figures from two of her earlier published papers and falsely labeling them to claim results that had not been achieved in her laboratory.
- Falsified Figure 7B by reusing a figure from one of her published papers and both relabeling it to claim she had detected the STAR–2 protein rather than the TRA-l protein actually detected and modifying the image in the application to disguise its origin.
- Falsified Figure 8C by using a figure produced by one of her students and relabeled it to show that RNAi treatment of *C. elegans* led to increased expression of the TRA–2 protein when this result had not been obtained by the student.
- Falsified the table on Page 20 of the application showing phenotypic frequencies of worms expressing star-2 (ok483) mutants by significantly overstating the level of aberrant phenotypes and fabricating certain categories of phenotypes not seen by the student conducting the research.

PHS finds that in grant application 1 R01 GM073183–01, Dr. Goodwin knowingly and intentionally:

- Falsified Figure 5 because she used the same two lanes in both Figure 5 and Figure 7, although they were flipped horizontally in one of the figures to disguise their reuse. In Figure 7, the lanes illustrated an effect on *laf-1* during developmental stages of *C. elegans,* and in Figure 5, the same lanes purportedly illustrated an effect on *laf-1* noncoding RNA. A witness testified that the result in Figure 5 had not been observed, while that in Figure 7 had, indicating that the claims for Figure 5 were falsified.
- Falsified Figure 8 by reusing photographs prepared by a student that identified the location of *rRas-l* expression in adult worms and claiming instead that the images illustrated the location of *laf-1* mRNA. The images had been enlarged and cropped to disguise their location.

Dr. Goodwin has entered into a Voluntary Exclusion Agreement in which she has voluntarily agreed, for a period of three (3) years, beginning on July 22, 2010:

(1) To exclude herself from any contracting or subcontracting with any agency of the U.S. Government and from eligibility for, or involvement in, nonprocurement programs of the U.S. Government referred to as "covered transactions" pursuant to the HHS Implementation of OMB Guidelines to Agencies on Governmentwide Debarment and Suspension at 2 CFR 376, *et seq.;* and

(2) To exclude herself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

This Agreement is entered into pursuant to the terms of a plea agreement by and between the Respondent and the United States Attorney for the Western District of Wisconsin.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453–8800.

John Dahlberg,

Director, Division of Investigative Oversight, Office of Research Integrity.

[FR Doc. 2010–21048 Filed 8–24–10; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: "Eisenberg Center Voluntary Customer Survey Generic Clearance for the Agency for Healthcare Research and Quality." In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3520, AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on May 20th 2010 and allowed 60 days for public comment. One comment was received. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by September 24, 2010.

ADDRESSES: Written comments should be submitted to: AHRQ's OMB Desk Officer by fax at (202) 395–6974 (attention: AHRQ's desk officer) or by e-mail at *OIRA_submission@omb.eop.gov* (attention: AHRQ's desk officer).

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by e-mail at *doris.lefkowitz(AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Eisenberg Center Voluntary Customer Survey Generic Clearance for the Agency for Healthcare Research and Quality

The Agency for Healthcare Research and Quality (AHRQ) requests that the Office of Management and Budget (OMB) renew, under the Paperwork Reduction Act of 1995, AHRQ's Generic Clearance to collect information from users of work products and services initiated by the John M. Eisenberg Clinical Decisions and Communications Science Center (Eisenberg Center).

AHRQ is the lead agency charged with supporting research designed to improve the quality of healthcare, reduce its cost, improve patient safety, decrease medical errors, and broaden access to essential services. See 42 U.S.C. 299. AHRQ's Eisenberg Center is an innovative effort aimed at improving communication of findings to a variety of audiences ("customers"), including consumers, clinicians, and health care policy makers. The Eisenberg Center compiles research results into a variety of useful formats for customer stakeholders. The Eisenberg Center also conducts its own program of research into effective communication of research findings in order to improve the usability and rapid incorporation of findings into medical practice. The Eisenberg Center is one of three components of AHRQ's Effective Health Care Program, see 42 U.S.C. 299b–7. For the period 2005 until September 2008, the Eisenberg Center was operated through a contractual arrangement with the Oregon Health and Science University (OHSU), Department of Medicine, located in Portland, Oregon. In September 2008, the contract for operation of the Eisenberg Center was awarded to Baylor College of Medicine (BCM), located in Houston Texas.

The collections proposed under this clearance include activities to assist in the development of materials to be disseminated through the Eisenberg Center and to provide feedback to AHRQ on the extent to which these products meet customer needs. These materials include Summary Guides that summarize and translate the findings of comparative effectiveness reviews (CER) and research reports for purposes of summarizing research findings for various decision-making audiences, such as consumers, clinicians, or policymakers. The guides are designed to help these decision makers use research evidence to maximize the benefits of health care, minimize harm, and optimize the use of health care resources. In addition, each year of the project the Eisenberg Center will develop one computerized, interactive decision aid for those clinical problems identified from selected CERs. The intent is for the decision aid to increase the patient/consumer's knowledge of the health condition, options, and risk/benefits, lead to greater assurance in making a decision, increase the congruence between values and choices, and enhance involvement in the decision making process. Information collections conducted under this generic clearance are not required by regulation and will not be used to regulate or sanction customers. Surveys will be entirely voluntary, and information provided by respondents will be combined and summarized so that no individually identifiable information will be released. The Eisenberg Center will produce from 17 to a maximum of 33 Summary Guides per audience (i.e., clinician, policymaker, consumer) per year, depending on the information needed for each product with each audience.

In accordance with OMB guidelines for generic clearances for voluntary customer surveys and Executive Order 12862, AHRQ has established an independent review process to assure the development, implementation, and analysis of high quality customer surveys within AHRQ. Specifically, AHRQ understands that each activity conducted must be submitted to OMB with a supporting statement and accompanying instruments. Information collection may not proceed until approved by OMB.

Method of Collection

Information collections conducted under this clearance will be collected via the following methods:

- *Focus Groups.* Focus groups may include clinical professionals, patients or other health care consumers, or health policy makers. They will be used to provide input regarding the needs for products and for the development of Decision Aids and Summary Guides. Focus groups may also be used to test draft products to determine if intended information and messages are being delivered through products that are produced and disseminated through the Eisenberg Center.
- *In-person or Telephone Interviews.* Interviews will be conducted with individuals from one or more of the three groups identified above. The purpose of these interviews is to (1) To provide input regarding the development of Decision Aids and Summary Guides, (2) to determine if intended information and messages are being delivered effectively through products that are produced and disseminated through the Eisenberg Center, and (3) to engage the subject in cognitive testing to (a) determine if changes in topical knowledge levels can be identified following exposure to Eisenberg Center informational or instructional products, and (b) identify strengths and weaknesses in products and services for purposes of making improvements that are practical and feasible.
- *Customer Satisfaction Survey for the Decision Aids.* Baseline survey data will be collected on both clinician and

patient characteristics, characteristics of the health care condition, and selected outcome measures such as knowledge and decisional self-efficacy. Following delivery of the decision aid, a user survey will be completed to explore subjects' impressions of the tool, including ease of use, clarity of presentation, length, balance of information, rating of interactive features, and overall satisfaction. Both clinicians and patients/consumers will be surveyed. For patients, the customer satisfaction survey will include decisional outcome measures (e.g., decisional conflict, desire for involvement in decision making), measures of attitudes and self-efficacy, and indicators of choice intention or actual choice made. If the aid is evaluated within a clinical context, measures of physician-patient interaction will also be considered. Additionally, clinicians may be interviewed about the impact of the aid on clinical flow.

• *Customer Satisfaction Surveys for the Summary Guides.* These surveys will be offered to health care professionals, consumers, and policy makers that use the online Summary Guides. Respondents will report via Likert-type or numerical response scales how specific informational or educational products or materials influenced health care or clinical practice behaviors.

• *Follow-up CME Surveys.* Continuing Medical Education (CME) credit will be offered to physicians who wish to participate in online activities developed around the Summary Guides for clinicians. Three months after completing the educational activity, physicians will be asked to complete a follow-up survey to assess realized changes in clinical practice, barriers to making change, and self-assessed impacts on patient care.

• *Solicited Topic Nominations.* Visitors to the Web site will have the opportunity to provide information about suggested topics that might be addressed through the research and dissemination efforts of the EHC program.

• *Web site Registration.* Visitors to the Web site will be able to register personal contact information (e.g., name, email address) if wishing to receive updated information and materials as they become available.

• *Glossary Feedback Survey.* Visitors to the Web site who access the health care glossary will be asked to suggest missing terms and provide additional comments on definitions or usage sentences, if desired.

This information will be used to develop, improve and/or maintain high quality products and services to lay and health professional publics.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated total burden for the respondents' time to participate in this research. These estimates assume a maximum of 99 Summary Guides over 3 years and separate Guides for clinicians, policy makers and consumers and are thus slight overestimates.

Focus groups will be used for needs assessment and will be conducted with clinicians and consumers for development of the Summary Guides, and additionally with policymakers for those Guides in which policy recommendations are applicable. Focus groups will be conducted with no more than 3,168 persons over 3 years and will last about 1½ hours.

Once the Summary Guides are developed they will be subjected to in-person or telephone interviews for purposes of usability and product testing with clinicians, policy makers and consumers. In-personltelephone interviews will be conducted twice with about 4,158 persons over 3 years and will take about 66 minutes on average. As depicted in Attachment B, two rounds of interviews will be conducted with all consumer representatives during product development, with a second round of interviews conducted occasionally with clinicians and policy makers, as needed.

Customer satisfaction surveys for the Summary Guides will be conducted with approximately 19,800 representatives from the audience to be targeted by the Summary Guides over 3 years (i.e., clinician, policymaker or consumer) and will take 5 minutes to complete.

Customer satisfaction surveys will also be administered to approximately 150 clinicians and 1,500 patients in evaluating the Decision Aid. These surveys will take about 10 minutes to complete, and will be administered before and after implementation of the Decision Aid in the study populations.

Clinicians that have completed CME accrediting requirements and are requesting CME credit will be asked to complete the follow-up CME Survey three months following completion of the online activity. This data collection will be completed with about 3,960 clinicians over 3 years and will require 5 minutes to complete.

Approximately 7,500 solicited topic nomination forms will be completed over 3 years by healthcare professional and consumer visitors to the Web site and will require about 5 minutes to complete. Web site Registration will be completed by all persons wanting to stay up-to-date with the latest information from the Eisenberg Center, about 18,000 over 3 years, and requires about 5 minutes to complete. The Glossary Feedback Survey will be completed by about 600 persons that access the glossary over a 3-year period and takes 5 minutes to complete. The total burden hours are estimated to be 18,605 over 3-years.

Exhibit 2 shows the estimated total cost burden associated with the respondents' time to participate in this research. The cost burden is estimated to be $865,829 annually.

EXHIBIT 1—ESTIMATED TOTAL BURDEN HOURS OVER 3 YEARS

Type of data collection	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Focus Groups	3,168	1	1.5	4,752
In-person/Telephone Interviews	4,158	2	1.1	9,148
Customer Satisfaction Surveys for the Decision Aid	1,650	2	10/60	550
Customer Satisfaction Surveys for the Summary Guides	19,800	1	5/60	1,650
Follow-up CME Surveys	3,960	1	5/60	330
Solicited Topic Nominations	7,500	1	5/60	625
Web site Registration	18,000	1	5/60	1,500
Glossary Feedback Survey	600	1	5/60	50
Total	58,836	na	na	18,605

EXHIBIT 2—ESTIMATED TOTAL COST BURDEN OVER 3 YEARS

Type of data collection	Number of respondents	Total burden hours	Average hourly wage rate*	Total cost burden
Focus Groups	3,168	4,752	$46.71	$221,966
In-person/Telephone Interviews	4,158	9,148	53.17	486,399
Customer Satisfaction Surveys for the Decision Aid	1,650	550	24.50	13,475
Customer Satisfaction Surveys for the Summary Guides	19,800	1,650	46.71	77,072
Follow-up CME Surveys	3,960	330	73.86	24,374
Solicited Topic Nominations	7,500	625	19.56	12,225
Web site Registration	18,000	1,500	19.56	29,340
Glossary Feedback Survey	600	50	19.56	978
Total	58,836	18,605	na	865,829

*Based upon the mean and weighted mean wages for clinicians (29–1062 family and general practitioners), policy makers (11–0000 management occupations, 11–3041 compensation & benefits managers, 13–1072 compensation, benefits & job analysis specialists, 11–9111 medical and health service managers, 13–2053 insurance underwriters and 15–2011 actuaries) and consumers (00–0000 all occupations). Focus groups include 528 clinicians ($77.64/hr) and 528 consumers ($20.32/hr); in-person/telephone interviews include 528 clinicians, 330 policy makers ($39.91/hr) and 528 consumers; customer satisfaction surveys for the decision aid include 50 clinicians and 500 consumers; customer satisfaction surveys for the summary guides include 1,650 clinicians, 1,650 policy makers and 3,300 consumers; follow-up CME surveys include 1,320 clinicians; solicited topic nominations include 1,125 clinicians, 250 policy makers and 1,125 consumers; Web site registration includes 2,700 clinicians, 600 policy makers and 2,700 consumers; glossary feedback survey includes 90 clinicians, 20 policy makers and 90 consumers, National Compensation Survey: Occupational wages in the United States May 2008, "U.S. Department of Labor, Bureau of Labor Statistics."

Estimated Annual Costs to the Federal Government

The maximum cost to the Federal Government is estimated to be $1,439,003 annually. Exhibit 3 shows the total and annualized cost by the major cost components.

EXHIBIT 3—ESTIMATED TOTAL AND ANNUALIZED COST

Cost component	Total cost	Annualized cost
Project Development	$1,019,970	$339,990
Data Collection Activities	735,405	245,135
Data Processing and Analysis	1,889,505	629,835
Project Management	557,380	185,793
Overhead	114,750	38,250
Total	4,317,010	1,439,003

Request for Comments

In accordance with the above-cited Paperwork Reduction Act legislation, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ healthcare research and healthcare information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: August 9, 2010.

Carolyn M. Clancy,

Director.

[FR Doc. 2010–20913 Filed 8–24–10; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; NCCAM Office of Communications and Public Liaison Communications Program Planning and Evaluation Research

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 Center for Complementary and Alternative Medicine (NCCAM), at 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: NCCAM Office of Communications and Public Liaison Communications Program Planning and Evaluation Research. *Type of Information Collection Request:* Extension.

Need and Use of Information Collection: To carry out NCCAM's legislative mandate to educate and disseminate information about complementary and alternative medicine (CAM) to a wide variety of audiences and organizations, the NCCAM Office of Communications and Public Liaison (OCPL) requests clearance to carry out formative research of a variety of print and online materials, outreach activities, and messages to maximize their impact and usefulness.

OCPL wishes to continue to carry out formative research to further understand the knowledge, attitudes, and behaviors of its core constituent groups: Members of the general public, researchers, and providers of both conventional and CAM health care. In addition, it seeks to test newly formulated messages and identify barriers and impediments to the effective communication of those messages. With this formative audience research, OCPL test audience responses to NCCAM's fact sheets, Web content, and other materials and messages. This research will also include pilot testing of recently developed messages and communication products.

The data collection methods have been selected to minimize burden on NCCAM's audiences, produce or refine messages that will influence target audience attitudes and behavior in a positive manner, and to use Government resources efficiently. Research methods may include individual in-depth interviews, focus group interviews, intercept interviews, self-administered questionnaires, gatekeeper reviews, and omnibus surveys.

The data will enhance OCPL's understanding of (1) the unique information needs and distinct health-information-seeking behaviors of its core constituencies, and (2) the special information needs of segments within these constituencies. Among the general public these distinct segments include cancer patients, the chronically ill, minority and ethnic populations, the elderly, users of dietary supplements, and patients integrating complementary therapies with conventional medical treatments.

Frequency of Response: On occasion. *Affected Public:* Individuals and households; non-profit institutions; Federal Government; State, Local, or Tribal Government. *Type of Respondents:* Adult patients; members of the public; health care professionals; organizational representatives. The annual reporting burden is as follows:

TABLE 1—ANNUAL BURDEN HOURS

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
In-depth interviews with general public	30	1	.75	23
Focus groups	20	1	1.5	30
Omnibus surveys	1,900	1	.25	475
Intercept interviews with public and healthcare professionals	300	1	.25	75
In-depth interviews with health professionals	50	1	.50	25
Self-administered questionnaires with health professionals	200	1	.25	50
Total	2,500			678

TABLE 2—ANNUAL COST TO RESPONDENTS

Type of respondents	Number of hours	Hourly wage*	Respondent cost
In-depth interviews with general public	23	$21	$483
Focus groups	30	21	630
Intercept interviews with public	70	21	1,470
Omnibus surveys with public	475	21	10,500
Intercept interviews with healthcare professionals	5	**63	315
In-depth interviews with health professionals	25	63	1,575
Self-administered questionnaires with health professionals	50	63	3,150
Total	678		18,123

*2009 National Occupational Employment and Wage Estimates (*http://www.bls.gov/oes/current/oes_nat.htm*)

**Healthcare professional hourly wage was calculated by averaging the median hourly wage for physicians and surgeons ($84) and the median hourly wage for physician assistants, as representatives of the second tier of clinical care ($41) to get an average of $63 per hour.

There are no Capital Costs, Operating Costs, or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on 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 assumption 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 Christy Thomsen, Director, Office of Communications and Public Liaison, NCCAM, 31 Center Drive, Room 2B11, Bethesda, MD 20892, or fax your request to 301–402–4741, or e-mail *thomsenc@mail.nih.gov*. Ms. Thomsen can be contacted by telephone at 301–451–8876.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: August 12, 2010.

Christy Thomsen,

Director, Office of Communications and Public Liaison, National Center for Complementary and Alternative Medicine, National Institutes of Health.

[FR Doc. 2010–21159 Filed 8–24–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Request; OMB No. 0925–0177 "Special Volunteer and Guest Researcher Assignment," Form 590

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 information collection, the Office of Human Resources, 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: Special Volunteer and Guest Researcher Assignment for use in NIH facilities.

Type of Information Collection Request: Reinstatement, OMB 0925–0177, Expiration Date July 31, 2005.

Need and Use of Information Collection Request:

Form Number: NIH–590. A single Form NIH–590 is completed by an NIH official for each Guest Researcher or Special Volunteer prior to his/her arrival at NIH. The information on the form is necessary for the approving official to reach a decision on whether to allow a Guest Researcher to use NIH facilities, or whether to accept volunteer services offered by a Special Volunteer. If the original assignment is extended, another form notating the extension is completed to update the file.

Frequency of Response: Once.

Affected Public: Individuals.

Type of Respondents: Non-federal scientific professionals and/or individuals.

The annual Reporting burden is as follows:

Estimated Number of Respondents: 1660;

Estimated Number of Responses per Respondent: 1.0;

Average Burden Hours per Response: 0.1; and

Estimated Total Annual Burden Hours Requested: 166. The estimated annualized cost to respondents is $2,275.

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 Mrs. Wanda Darwin, Office of Human Resources, Office of The Director, NIH, Building 31, Room 1C31E, One Center Drive, Bethesda, MD 20892–2269, or call non-toll-free number 301–402–2820, or E-mail your request, including your address to: [*darwinw@od.nih.gov*].

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: August 18, 2010.

Wanda R. Darwin,

Human Resources Specialist, Office of Human Resources, National Institutes of Health.

[FR Doc. 2010–21099 Filed 8–24–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Resource for the Collection and Evaluation of Human Tissues and Cells From Donors With an Epidemiology Profile (NCI)

Summary: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on June 16, 2010 (75 FR 34146) and allowed 60-days for public comment. One public comment was received on 7/16/2010 from a business informing us that they are able to provide a time-saving "batch processing service" to locate and verify "the most current addresses and phone numbers" of survey respondents. A response was sent on 7/26/2010 to the business which indicated the existence of similar devices and/or procedures in the current design of the project. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: Resource for the Collection and Evaluation of Human Tissues and Cells from Donors with an Epidemiology Profile (NCI). Type of *Information Collection Request: New:* Need and Use of Information Collection: Under the auspices of three NCI IRB-approved protocols and instruments, the Laboratory of Human Carcinogenesis conducts case-control studies to investigate the relations between biomarkers, the environment, and human cancer. Human subjects recruited from the general population are needed as controls (Population Controls) for bio-specimens and personal histories (social, occupational and health) that serve as references for the significance of the frequency and prevalence of bio-markers found in cancer patients and thought to be important in the development, progression, and/or response to treatment of the malignant growths in cancer patients. The questionnaires will be used to obtain the personal histories to compare to the life styles and exposures and the biospecimens will serve as controls for the assay results obtained from cancer patients. The collection of information and specimens from the cancer cases received NIH Clinical Exemption (Request #2009–09–002) on October 28, 2009. *Frequency of Response:* Once. *Affected Public:* Adult and senior members of the licensed driver population in Baltimore, Maryland and eleven near-by counties, including the Eastern Shore. *Type of Respondents:* Responders will be English speaking, male and female, Caucasian, African-American and Asian. The total annual reporting burden is estimated to be 692 (see table below). There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report.

TABLE 1—ESTIMATES OF ANNUAL BURDEN HOURS

Type of respondents	Survey instrument	Number of respondents	Frequency of response	Average time per response (minutes/hour)	Annual burden hours
Adults (40–79 years old)	Telephone Screener (Attachment 16)	1700	1	10/60 (0.17)	283
	Main Questionnaire (Attachment 6)	225	1	60/60 (1)	225
	Prostate Supplemental Questionnaire (Attachment 7).	125	1	30/60 (0.5)	63
	Liver Supplement (Attachment 8)	225	1	30/60 (0.5)	113
	Refusal Questionnaire Form (Attachment 21)	225	1	2/60 (0.03)	8
Totals		2500			692

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Attention: NIH Desk Officer, Office of Management and Budget, at *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Glenwood E. Trivers or Elise Bowman, Center for Cancer Research, NCI, NIH, 37 Convent Drive Room 3060–C or 3060–A, Building 37, Bethesda, Maryland 30893–4258 or call non-toll-free number 301–496–2094 or 301–496–2090 or e-mail your request, including your address to *triversg@mail.nih.gov* or *bowmane@mail.nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: August 18, 2010.

Vivian Horovitch-Kelley

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2010–21098 Filed 8–24–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0079]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Experimental Study of Graphic Cigarette Warning Labels

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 September 24, 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 emailed to *oira_submission@omb.eop.gov*. All comments should be identified with the OMB control number 0910–NEW and title "Experimental Study of Graphic Cigarette Warning Labels." Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3794, *Jonnalynn.capezzuto@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.

Experimental Study of Graphic Cigarette Warning Labels—(OMB Control Number 0910–NEW)

Tobacco products are responsible for more than 440,000 deaths each year. The Centers for Disease Control and Prevention report that approximately 46 million U.S. adults smoke cigarettes in the United States, even though this behavior will result in death or disability for half of all regular users. Paralleling this enormous health burden is the economic burden of tobacco use, which is estimated to total $193 billion annually in medical expenditures and lost productivity. Curbing the significant adverse consequences of tobacco use is one of the most important public health goals of our time. One way to do this is through health warnings that describe and graphically depict the harm caused by cigarette use.

On June 22, 2009, the President signed the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (Public Law 111–31) into law. The Tobacco Control Act granted FDA important new authority to regulate the manufacture, marketing, and distribution of tobacco products to protect the public health generally and to reduce tobacco use by minors. Section 201 of the Tobacco Control Act, which amends section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), requires FDA to issue "regulations that require color graphics depicting the negative health consequences of smoking to accompany the label statements specified in subsection (a)(1)." FDA conducts research relating to tobacco products under its statutory authority in section

1103(d)(2)(C) of the Federal Food, Drug, and Cosmetic Act, as amended by the Tobacco Control Act, to conduct research "relating to foods, drugs, cosmetics, devices, and tobacco products in carrying out the act." The study proposed here is an effort by FDA to collect data concerning graphic warnings on cigarette packages and their impact on consumer perceptions, attitudes, and behavior with respect to smoking.

The study, the Experimental Study of Graphic Cigarette Warning Labels, is a voluntary experimental survey of consumers. The purpose of the study is to assess the effectiveness of various graphic warnings on cigarette packs for achieving three communication goals: (1) Conveying information about various health risks of smoking, (2) encouraging cessation of smoking among current smokers, and (3) discouraging initiation of smoking among youth and former smokers. The study will collect data from various groups of consumers, including current smokers aged 13 years and older, former smokers aged 13 years and older, and non-smokers aged between 13 and 25 years who may be susceptible to initiation of smoking. The study goals are to: (1) Measure consumer attitudes, beliefs, and intended behaviors related to cigarette smoking in response to graphic warning labels; (2) determine whether consumer responses to graphic warning labels differ across various groups based on smoking status, age, or other demographic variables; and (3) evaluate the relative effectiveness of various graphic images associated with each of the nine warning statements specified in the Tobacco Control Act for achieving each of the communication goals. The information collected from the study is necessary to inform the agency's efforts to implement the mandatory graphic warnings required by the Tobacco Control Act.

The experimental study data will be collected from participants of an Internet panel. Participation in the experimental study is voluntary.

In the **Federal Register** of February 22, 2010 (75 FR 7604), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received five comments in response to the notice.

All five comments supported FDA's proposal to sponsor consumer research to provide a scientific basis for regulations requiring color graphics to accompany the new statutory health warnings set forth in the Federal Cigarette Labeling and Advertising Act, as amended by the Tobacco Control Act.

One comment recommended that the FDA consider conducting followup assessments to determine whether the warnings are having their intended effects and, if not, to determine what revisions are needed.

FDA agrees that appropriate surveillance is important, and that the comment makes an excellent suggestion for future research.

Two comments recommended that FDA include information about cessation resources in the tested graphic warnings.

FDA will be testing a variety of different graphics that will vary in style and intensity. Some of the tested images will include information about cessation resources. Decisions about whether to include specific graphics containing cessation information in final regulations will be made after the results of the experimental study are available and these data will be a primary factor in the selection of images for final regulations.

One comment recommended that FDA use images that are medically accurate to avert claims that the graphics are deceptive to consumers and ensure that smokers are confident in the accuracy of the health information provided.

FDA agrees that it is important to ensure that the graphic health warnings convey accurate information about smoking risks to consumers. The data collected from the proposed research will provide important information to ensure that the graphic health warnings being tested do not elicit unintended responses from consumers.

One comment urged that FDA ensure that the questionnaire ask questions in an objective and unbiased manner.

FDA agrees with this recommendation and has designed a survey instrument that includes validated measures used in other research. Thus the questions are objective, unbiased, and reliably understood by respondents. In addition, FDA plans to conduct cognitive interviews prior to the experimental survey. These interviews will help identify any unanticipated problems consumers may have in understanding or responding to the questions in the survey.

One comment questioned the basic premise of requiring graphic health warnings, stating that international experience shows that graphic health warnings have not reduced smoking rates.

The purpose of this study is not to determine whether FDA should require graphic health warnings. Congress has already made that determination. Similarly, the purpose of this study is not to determine the absolute effectiveness of graphic health warnings in terms of changing smoking behavior. Instead, the purpose of this study is to determine the relative efficacy of various graphic health warnings for conveying risk information to consumers and provide a scientific basis for FDA's regulations for graphic health warnings as required by the Federal Cigarette Labeling and Advertising Act, as amended by the Tobacco Control Act.

One comment sought assurance that FDA will obtain appropriate parental consent and Institutional Review Board (IRB) approvals, especially with respect to the collection of information from adolescents.

FDA strongly agrees that appropriate parental consent and IRB approval is important and necessary. Such consent and approval will be obtained as part of the standard regulatory research process and before any collection of information.

One comment questioned FDA's decision to use an Internet survey, especially with respect to the collection of information from adolescents, and recommended that FDA sponsor an in-person survey instead.

As indicated previously in this document, the purpose of this study is to assess the relative efficacy of various graphic health warnings. The use of an Internet-based panel to collect our experimental data is appropriate for this purpose. FDA believes that the Internet-based panel will provide the most efficient and practical methodology for collecting the data.

One comment also indicated that an Internet-based survey is not well-suited to analyzing health warnings because the health warnings under real world conditions appear on three-dimensional packages rather than on two-dimensional images on a computer screen. The comment recommended that FDA consider a prior mailing of realistic mockups of cigarette packages, which the participants could examine while taking the survey.

FDA agrees that it is important that survey participants view realistic images of the tested graphic health warnings on product packaging. The study is designed so that participants will view a three-dimensional animation of mockups of various graphic warnings on product packaging. Participants will be able to manipulate the animation during the survey to see the front, back, and sides of the package. We believe that this animation is sufficient to ensure that study participants view the tested graphic warnings under realistic conditions.

One comment recommended that FDA include a meaningful pretesting of the survey instrument, including the use of cognitive interviews.

FDA agrees that meaningful pretesting of the survey instrument is important, and plans both cognitive interviews and pretests. The cognitive interviews will help FDA evaluate and refine the draft questionnaire, and help to identify areas where the instrument is ambiguous, burdensome, or confusing. FDA will also conduct pretests of the algorithms and programs for respondent sampling, survey administration, and data collection.

One comment raised a number of individual concerns that the planned cross-sectional design of the proposed survey is not capable of providing information from which causal conclusions about the relationship between exposure to the graphic images and smoking behavior can be based. The comment also raised the concern that questions regarding intended actions about smoking cessation or smoking initiation are inadequate to demonstrate actual behavioral changes. To address these concerns, the comment recommended the use of a longitudinal design that monitors actual behavior over time.

The purpose of this study is not to determine the absolute effectiveness of graphic health warnings in terms of changing smoking behavior. Instead, as indicated previously in this document, the purpose of the study is to determine the relative efficacy of various graphic health warnings for purposes of providing a scientific basis for FDA's regulations for graphic health warnings as required by the Federal Cigarette Labeling and Advertising Act, as amended by the Tobacco Control Act. A cross-sectional design is appropriate for this purpose.

In addition, FDA disagrees that questions concerning intentions to quit smoking or to not begin smoking are inappropriate. The more recent scientific literature shows that statements by smokers concerning their intentions to quit smoking are predictive of their making subsequent quit attempts (Ref. 1). Similarly, the scientific literature demonstrates that statements by children and adolescents concerning their intentions to smoke or not smoke are reliable predictors of subsequent smoking and precedes smoking initiation (Ref. 2).

One comment noted that it is important that the study be conducted in a manner that avoids question order bias.

FDA agrees that efforts must be taken to avoid any potential bias, and is confident that the study will be conducted in a manner that yields objective and reliable results. The planned cognitive interviews and pretests should help identify potential problems with question order and allow FDA to address those concerns prior to the experimental survey.

One comment recommended that FDA use a research design that tests across subjects, rather than within subjects. The comment states that failure to use an across-subjects design will lead to an overestimate of the effects of bolder warnings.

FDA's proposed study employs a between-subjects design that will test across subjects.

One comment recommends that care be taken to avoid information overload, given the number of warning statements and images.

FDA agrees with the comment. The between-subjects design of the study will reduce the potential for information overload. Each treatment group of respondents will view and respond to one graphic warning label.

One comment also included comments on a separate **Federal Register** notice that sought public comment on a proposed FDA collection of information concerning the pretesting of tobacco communications, Docket No. FDA–2010–N–0084. That notice is not related to the information collection concerning graphic health warnings. Accordingly, those comments are not addressed in this document.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Portion of Study	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Pre-test	60	1	60	0.25	15
Screener	36,000	1	36,000	0.016	600
Experimental Survey	23,400	1	23,400	0.25	5,850
Total					6,465

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA's burden estimate is based on prior experience with Internet panel experiments similar to the study proposed here. Sixty panel members will take part in a pre-test of the study, estimated to last 15 minutes (0.25 hours), for a total of 15 hours. Approximately 36,000 respondents will complete a screener to determine eligibility for participation in the study, estimated to take 1 minute (0.016 hours), for a total of 600 hours. Eighteen thousand (18,000) respondents will complete the full study, estimated to last 15 minutes (0.25 hours) and approximately 5,400 of those respondents will complete an additional survey 1 to 2 weeks following the original survey, estimated to last 15 minutes (0.25 hours), for a total of 5,850 hours. The total estimated burden is 6,465 hours. Burden hours exceed FDA's previous estimates published in the 60-day notice of this study. Additional hours are the result of an increase in respondent sample size. A larger sample size is required to ensure sufficient statistical power for analysis of the data.

References

The following references have been placed 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.

1. Zhou, X et al. "Attempts to quit smoking and relapse: Factors associated with success or failure from the ATTEMPT cohort study," *Addictive Behaviors*, 2009; 34: 365–373; Hyland A et al. (2006), "Individual-level predictors of cessation behaviours among participants in the International Tobacco Control (ITC) Four Country Survey," *Tobacco Control*, 15: iii83–iii94.

2. Hampson SE et al., "Predictors of the Development of Elementary-School Children's Intentions to Smoke Cigarettes: Hostility, Prototypes, and Subjective Norms," *Nicotine and Tobacco Research*, 2007 July; 9(7): 751–760; Wakefield, M. et al., "The role

of smoking intentions in predicting future smoking among youth: findings from the Monitoring the Future data," *Addiction* 2004 Jul; 99(7): 914–22; Pierce J, et al., "Validation of susceptibility as a predictor of which adolescents take up smoking in the United States," *Health Psychology*, 1996(Sept): 355–61.

Dated: August 20, 2010.

David Dorsey,

Acting Deputy Commissioner for Policy, Planning and Budget.

[FR Doc. 2010–21123 Filed 8–24–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket Number NIOSH–210]

A Review of Information Published Since 1995 on Coal Mine Dust Exposures and Associated Health Outcomes

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of draft document available for public comment.

SUMMARY: The National Institute for Occupational Safety and Health of the Centers for Disease Control and Prevention announces the availability of a draft Current Intelligence Bulletin entitled "A Review of Information Published Since 1995 on Coal Mine Dust Exposures and Associated Health Outcomes" now available for public comment. The draft document and instructions for submitting comments can be found at: *http://www.cdc.gov/niosh/docket/review/docket210/default.html.* This document updates and supports the coal mine dust Recommended Exposure Limit (REL) of 1 mg/m^3 that was recommended in the 1995 document, "Criteria for a Recommended Standard: Occupational Exposure to Respirable Coal Mine Dust, (1995–106)" which can be viewed at: *http://www.cdc.gov/niosh/95-106.html.*

This guidance does not have the force and effect of the law.

Public Comment Period: Comments must be received by September 24, 2010.

ADDRESSES: Written comments may be submitted to the NIOSH Docket Office, identified by Docket Number NIOSH–210, by any of the following methods:

- *Mail:* NIOSH Docket Office, Robert A. Taft Laboratories, MS–C34, 4676 Columbia Parkway, Cincinnati, Ohio 45226.
- *Facsimile:* (513) 533–8285.
- *E-mail: nioshdocket@cdc.gov.*

All information received in response to this notice will be available for public examination and copying at the NIOSH Docket Office, 4676 Columbia Parkway, Room 111, Cincinnati, Ohio 45226. A complete electronic docket containing all comments submitted will be available on the NIOSH Web page at *http://www.cdc.gov/niosh/docket*, and comments will be available in writing by request. NIOSH includes all comments received without change in the docket, including any personal information provided. All electronic comments should be formatted as Microsoft Word. Please make reference to Docket Number NIOSH- 210.

FOR FUTHER INFORMATION CONTACT: Michael D. Attfield, Ph.D., telephone (304) 285–5737, e-mail *mda1@cdc.gov* or Eileen Storey, M.D., telephone (304) 285–6382, e-mail *eps4@cdc.gov,* NIOSH, 1095 Willowdale Road, Morgantown, WV 26505.

Dated: August 17, 2010.

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2010–21187 Filed 8–24–10; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Draft National Conversation on Public Health and Chemical Exposures Work Group Reports; Opportunity for Public Comment

AGENCY: Centers for Disease Control and Prevention and Agency for Toxic Substances and Disease Registry (CDC/ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The National Conversation on Public Health and Chemical Exposures is a collaborative initiative through which many organizations and individuals are helping develop an action agenda for strengthening the nation's approach to protecting the public's health from harmful chemical exposures. This notice announces the availability of draft National Conversation work group reports for public review and comment. CDC/ATSDR has partnered with RESOLVE, a non-profit independent consensus-building organization, to manage aspects of the National Conversation project. RESOLVE is convening the National Conversation Leadership Council and facilitating the work group process.

DATES: Draft work group reports will be available on or about September 7, 2010. In order to be considered, comments must be received within 14 days of the reports being posted. The public comment period is anticipated to close September 20, 2010. Comments received after the close of the comment period will be considered to the fullest extent possible.

ADDRESSES: Draft work group reports will be available on RESOLVE's Web site at *http://www.resolv.org/nationalconversation.* Those interested in submitting comments are encouraged to submit them through that Web site. Comments can also be submitted by e-mail to *nccomments@resolv.org.* Please indicate in the e-mail subject line the name of the work group report that your comments address (*e.g.* "Comments on Monitoring Work Group Report"). Comments can be submitted by mail to National Conversation c/o RESOLVE, Inc. 1255 23rd Street, NW., Suite 875, Washington, DC 20037 or by fax attention to Jason Gershowitz at 202–338–1264.

FOR FURTHER INFORMATION CONTACT: Please direct questions about the National Conversation project to CDC/ATSDR by e-mail at *nationalconversation@cdc.gov,* phone at 770–488–0604, or mail at National Conversation, CDC/ATSDR, 4770 Buford Hwy, NE., MS F–61, Atlanta, GA 30341.

SUPPLEMENTARY INFORMATION: The National Conversation project includes a Leadership Council, which will author the action agenda, and six work groups, formed to research and make recommendations on the following cross-cutting public health and chemical exposures issues:

- Monitoring
- Scientific Understanding
- Policies and Practices
- Chemical Emergencies
- Serving Communities
- Education and Communication

Following the public comment period, National Conversation work groups will finalize their reports during the fall of 2010. The National Conversation Leadership Council will draw on work group reports and the results of public input received through Web dialogues, community conversations, and stakeholder forums

in authoring the action agenda. The Leadership Council's draft action agenda is anticipated to be available for public review and comment in December 2010. Work group reports will be appended to the action agenda.

For more information on National Conversation work groups, including their charges and meeting summaries, visit this Web site: *http://www.atsdr.cdc.gov/nationalconversation/work_groups.html.*

For additional information on the National Conversation on Public Health and Chemical Exposures, visit this Web site: *http://www.atsdr.cdc.gov/nationalconversation/.*

Dated: August 18, 2010.

Tanja Popovic,

Deputy Associate Director for Science Centers for Disease Control and Prevention.

[FR Doc. 2010–21120 Filed 8–24–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: National Human Immunodeficiency Virus (HIV) Behavioral Surveillance, Funding Opportunity Announcement PS11–001; Initial Review

Correction: This notice was published in the **Federal Register** on August 4, 2010, Volume 75, Number 149, page 46952. The time and date should read as follows:

Time and Date: 8 a.m.–5 p.m., October 4, 2010 (Closed).

Contact Person for More Information: Gregory Anderson, M.S., M.P.H., Scientific Review Officer, CDC, 1600 Clifton Road, NE., Mailstop E60, Atlanta, GA 30333, Telephone: (404) 498–2293.

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: August 18, 2010.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. C1–2010–21185 Filed 8–24–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Diabetes Immunology Ancillary Studies.

Date: October 7, 2010.

Time: 2:30 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: D.G. Patel, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 756, 6707 Democracy Boulevard, Bethesda MD 20892–5452, (301) 594–7682, *pateldg@niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Diabetes Epidemiology Ancillary Study.

Date: October 13, 2010.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda MD 20892. (Telephone Conference Call)

Contact Person: D.G. Patel, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 756, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7682, *pateldg@niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Review of R24 Applications.

Date: October 27, 2010.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: D.G. Patel, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 756, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7682, *pateldg@niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: August 19, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–21090 Filed 8–24–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Cardioprotection, Remodeling and Collateral Circulation.

Date: September 8–9, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting.)

Contact Person: Lawrence E. Boerboom, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4130, MSC 7814, Bethesda, MD 20892, (301) 435–8367, *boerboom@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Reproduction and Metabolism.

Date: September 29–30, 2010.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting.)

Contact Person: Sooja K Kim, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6182, MSC 7892, Bethesda, MD 20892, (301) 435–1780, *kims@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 19, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–21085 Filed 8–24–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Biomarker.

Date: September 15, 2010.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Sally A. Mulhern, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301) 435–5877, *mulherns@csr.nih.gov*.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Surgery, Anesthesiology and Trauma Study Section.

Date: September 29–30, 2010.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Weihua Luo, MD, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, (301) 435–1170, *luow@csr.nih.gov*.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Adult Psychopathology and Disorders of Aging Study Section.

Date: September 30–October 1, 2010.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Palomar, 2121 P Street, NW., Washington, DC 20037.

Contact Person: Estina E. Thompson, PhD, MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, 301–496–5749, *thompsone@mail.nih.gov*.

Name of Committee: Oncology 1—Basic Translational Integrated Review Group; Cancer Molecular Pathobiology Study Section.

Date: October 4–5, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Palomar, 2121 P Street, NW., Washington, DC 20037.

Contact Person: Manzoor Zarger, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6208, MSC 7804, Bethesda, MD 20892, (301) 435–2477, *zargerma@csr.nih.gov*.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Language and Communication Study Section.

Date: October 4–5, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street, NW., Washington, DC 20037.

Contact Person: Weijia Ni, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, (301) 237–9918, *niw@csr.nih.gov*.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Virology—A Study Section.

Date: October 4–5, 2010.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Baltimore Marriott Waterfront, 700 Aliceanna Street, Baltimore, MD 21202.

Contact Person: Joanna M. Pyper, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, (301) 435–1151, *pyperj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Collaborative: Emotion, Stress, and Health.

Date: October 5, 2010.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Harbor Magic—Pier 5 Hotel, 711 Eastern Avenue, Baltimore, MD 21202.

Contact Person: Maribeth Champoux, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, 301–594–3163, *champoum@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 19, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–21084 Filed 8–24–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Request for Comment: National Center for Complementary and Alternative Medicine Draft Strategic Plan

ACTION: Notice.

SUMMARY: The National Center for Complementary and Alternative Medicine (NCCAM) is developing its third strategic plan and invites the public to provide comments on a draft. The draft will be publicly available through the NCCAM Web site at *http://nccam.nih.gov* from on or about August 30 through September 30, 2010. The public is invited to provide comments through the NCCAM Web site.

Background: The National Center for Complementary and Alternative Medicine (NCCAM) was established in 1998 with the mission of exploring complementary and alternative healing practices in the context of rigorous science, training CAM researchers, and disseminating authoritative information to the public and professionals.

To date, NCCAM's efforts to rigorously study CAM, to train CAM researchers, and to communicate with the public and professionals, have been guided by NCCAM's previous strategic plans, located on the NCCAM Web site at *http://nccam.nih.gov/about/plans.*

The public is invited to review the draft of its third strategic plan and provide comments from August 30 through September 30, 2010. The papers may be viewed at *http://nccam.nih.gov/.*

Request for Comments: The public is invited to provide comments on a draft of NCCAM's third strategic plan. Comments may be provided through the NCCAM Web site at *http://nccam.nih.gov.*

FOR FURTHER INFORMATION: To request more information, visit the NCCAM Web site at *http://nccam.nih.gov,* call 1–888–644–6226, or e-mail *nccamsp@mail.nih.gov.*

Comments Due Date: Comments regarding the draft of NCCAM's strategic plan are best assured of having their full effect if received by September 30, 2010.

Dated: August 17, 2010.

Jack Killen,

Deputy Director, National Center for Complementary and Alternative Medicine National Institutes of Health.

[FR Doc. 2010–21160 Filed 8–24–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5376–N–84]

Notice of Submission of Proposed Information Collection to OMB; Doctoral Dissertation Research Grant Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The information is being collected to select applicants for award in this statutorily created competitive grant program and to monitor performance of grantees to ensure they meet statutory and program goals and requirements.

DATES: *Comments Due Date:* September 24, 2010.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2528–0213) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Leroy McKinney Jr., Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Leroy McKinney Jr. at *Leroy.McKinneyJr@hud.gov* or telephone (202) 402–5564. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. McKinney.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Doctoral Dissertation Research Grant Program.

OMB Approval Number: 2528–0213.

Form Numbers: SF–424, SF–424 Supplement, HUD–424CB, SFLLL, HUD 27300, HUD–2880, HUD 96010 and HUD 2994

Description of the Need for the Information and its Proposed Use:

The information is being collected to select applicants for award in this statutorily created competitive grant program and to monitor performance of grantees to ensure they meet statutory and program goals and requirements.

Frequency of Submission: On occasion.

	Respondents responses	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	50	95		25		2,380

Total Estimated Burden Hours: 2380.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 18, 2010.

Leroy McKinney, Jr.,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2010–21056 Filed 8–24–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5376–N–83]

Notice of Submission of Proposed Information Collection to OMB Historically Black Colleges and Universities (HBCU) Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The information is being collected to select applicants for award in this statutorily created competitive grant program and to monitor performance of grantees to ensure they meet statutory and program goals and requirements.

DATES: *Comments Due Date: September 24, 2010.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2528–0235) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; *fax:* 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Leroy McKinney Jr., Reports Management Officer, QDAM,

Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Leroy McKinney Jr. at *Leroy.McKinneyJr@hud.gov* or telephone (202) 402–5564. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. McKinney.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Historically Black Colleges and Universities (HBCU).

OMB Approval Number: 2528–0235.

Form Numbers: SF–424, SF–424 Supplement, HUD–424CB, SFLLL, HUD 27300, HUD–2880, HUD–2990, HUD–2991, HUD–2993, HUD 2994, HUD–2994A, HUD–40076, HUD 40077, HUD 96010 and HUD 96011.

Description of the Need For the Information and its Proposed Use:

The information is being collected to select applicants for award in this statutorily created competitive grant program and to monitor performance of grantees to ensure they meet statutory and program goals and requirements.

Frequency of Submission: semi-annually.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting burden	105	325		3.9		37,790

Total Estimated Burden Hours: 37790.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 18, 2010.

Leroy McKinney, Jr.,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2010–21060 Filed 8–24–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Renewal of Agency Information Collection for No Child Left Behind Act Implementation; Request for Comments

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Education (BIE) is seeking comments on renewal of Office of Management and Budget (OMB) approval for the collection of information for implementation of the No Child Left Behind Act. The information collection is currently authorized by OMB Control Number 1076–0163, which expires December 31, 2010.

DATES: Interested persons are invited to submit comments on or before *October 25, 2010.*

ADDRESSES: You may submit comments on the information collection to Dr. Jim Martin, Bureau of Indian Education, Mail Stop 3609–MIB, 1849 C Street, NW., Washington, DC 20240; *facsimile:* (202) 208–3312; *e-mail: Brandi.Sweet@bie.edu.*

FOR FURTHER INFORMATION CONTACT: Brandi Sweet (202) 208–5504.

SUPPLEMENTARY INFORMATION:

I. Abstract

BIE is seeking renewal of the approval for the information collection conducted under 25 CFR parts 30, 37, 39, 42, 44, and 47 under OMB Control Number 1076–0163. This information collection is necessary to implement Public Law 107–110, No Child Left Behind Act of 2001 (NCLB). The NCLB requires all schools, including BIE-funded schools, to ensure that all children receive a fair, equal, and significant opportunity to obtain a high quality education and reach, at a minimum, proficiency on challenging academic achievement standards and assessments. The BIE is required to monitor programs, gather data, and complete reports for the U.S. Department of Education. BIE relies on schools to prepare required documentation, such as the Annual Report; the School Report Card; Section 1114 Plans; financial budgets; school improvement plans; compliance action plans as a result of monitoring; Title II, Part A reports on highly qualified staff; Title IV, Part A, Safe and Drug Free Schools and Communities reports; competitive sub-grant reports,; Indian School Equalization Programs (ISEP) reports; the Native American Student Information System (NASIS) reports; and transportation reports. There is no change to the approved burden hours for this information collection.

II. Request for Comments

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 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, 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: 1076–0163.

Title: No Child Left Behind, 25 CFR 30, 37, 39, 42, 44, and 47.

Brief Description of Collection: Pursuant to NCLB, BIE-funded schools must prepare reports such as the Annual Report; the School Report Card; Section 1114 Plans; financial budgets; school improvement plans; compliance action plans as a result of monitoring; Title II, Part A reports showing that highly qualified staff have been hired; Title IV, Part A, Safe and Drug Free Schools and Communities reports; competitive sub-grant reports; Indian School Equalization (ISEP) reports; and transportation reports. Response is required to obtain a benefit (continued supplementary program funding).

Type of Review: Extension without change of a currently approved collection.

Respondents: BIE-funded schools.

Number of Respondents: 184.

Total Number of Responses: 706.

Frequency of Response: Quarterly or annually, depending on the item.

Estimated Time per Response: Ranges from 1 hour to 48 hours (30 per response on average).

Estimated Total Annual Burden: 21,180 hours.

Dated: August 12, 2010.

Alvin Foster,

Acting Chief Information Officer—Indian Affairs.

[FR Doc. 2010–21089 Filed 8–24–10; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Upper Truckee River Restoration and Golf Course Reconfiguration Project, El Dorado County, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of the Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS), and notice of public hearing.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), the California Environmental Quality Act (CEQA), and Article VII of the Tahoe Regional Planning Compact and Chapter 5 of the Tahoe Regional Planning Agency (TRPA) Code of Ordinances, the Bureau of Reclamation (Reclamation), California Department of Parks and Recreation (State Parks), and TRPA have made available for public review and comment the draft EIR/EIS for the Upper Truckee River Restoration and Golf Course Reconfiguration Project (Project). Depending on which alternative is selected, the proposed restoration project may include continuing existing golf course use, removal of the entire Lake Tahoe Golf Course, or reconfiguration of the golf course to allow for restoration of the river, to reduce the area of Stream Environment Zone occupied by the golf course, and to allow for establishment of a buffer area between the golf course and the river.

DATES: Submit written comments on the draft EIR/EIS on or before November 4, 2010.

Two public hearings will be held on October 13 and October 27, 2010, starting at 9:30 a.m. in Stateline, Nevada, to receive oral and written comments regarding the project's environmental effects.

ADDRESSES: Send any written comments on the Draft EIR/EIS to Cyndie Walck, State of California Department of Parks and Recreation, Sierra District, P.O. Box 16, Tahoe City, CA 96145. Comments may be faxed to the State Parks office at 530–581–5849. Comments by e-mail are preferred for an electronic record. For comments provided via e-mail, please utilize the following format:

E-mail to: *utproject@parks.ca.gov.*

Subject Line: River-Golf Course EIR/EIS/EIS

Directions:

(1) Attach comments in an MS Word document.

(2) Include commenter's U.S. Postal Service mailing address in MS Word.

All comments will be distributed by State Parks to TRPA and Bureau of Reclamation.

The public hearings will be held at 128 Market Street, Stateline, Nevada.

The Draft EIR/EIS is accessible at the following Web sites: *http://www.restoreuppertruckee.net/index.htm; http://www.parks.ca.gov/?page_id=981* (click on El Dorado County); *http://www.trpa.org; http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=5760.*

The draft EIR/EIS is available for review by the public during normal business hours at the following locations:

- State Parks' Administrative office at Sugarpine Point State Park, 7360 West Lake Boulevard, Tahoma, CA 96142.
- TRPA front desk, 128 Market Street, Stateline, NV 89449.
- Mid-Pacific Regional Library, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825.
- South Lake Tahoe Library front desk, 1000 Rufus Allen Boulevard, South Lake Tahoe, CA 96150.

Hard copies can be printed for purchase at Staples, 2061 Lake Tahoe Boulevard, South Lake Tahoe, CA 96150.

CDs are also available upon request from State Parks. Please submit request to: *utproject@parks.ca.gov.*

FOR FURTHER INFORMATION CONTACT: Cyndie Walck, State Parks, at 530–581–0925, or Mike Elam, TRPA, and Myrnie Mayville, Reclamation, at 775–588–4547.

SUPPLEMENTARY INFORMATION: The purpose of the project is to improve geomorphic processes, ecological functions, and habitat values of the Upper Truckee River within the study area, helping to reduce the river's discharge of nutrients and sediment that diminish Lake Tahoe's clarity while providing access to public recreation opportunities in Washoe Meadows State Park (SP) and Lake Valley State Recreation Area (SRA).

The 520-acre study area is just north of Meyers and south of the City of South Lake Tahoe, within El Dorado County, California. It includes the southern portion of Washoe Meadows SP, Lake Valley SRA, and small portions of U.S. Forest Service (USFS) and California Tahoe Conservancy (Conservancy) lands, as well as a 1.5-mile reach of the Upper Truckee River.

The four action alternatives (Alternatives 2–5), and the No-Project/No-Action Alternative (Alternative 1) are analyzed in the draft EIR/EIS. For the No Project/No-Action Alternative, Alternative 1, the river restoration and changes to the golf course would not be implemented. This alternative represents a projection of reasonably foreseeable future conditions that could occur if no project actions were implemented. Alternative 2 would involve restoration of the Upper Truckee River with a reconfigured 18-hole regulation golf course. Alternative 3 would involve river restoration, providing a reduced-play golf course. Alternative 4 would use a combination of hard and soft stabilization to keep the river in its present configuration and includes only minor changes to the existing golf course. Alternative 5 would involve decommissioning and removing the 18-hole regulation golf course to restore all or a portion of the golf course landscape to meadow and riparian habitat.

Significant or Adverse Environmental Effects Anticipated

Implementing Alternative 1, the No-Project/No-Action Alternative, would not result in any changes within the study area and, therefore, not result in any significant unavoidable impacts. Project-related and cumulative effects on modifications in Upper Truckee River coarse sediment transport and delivery downstream under Alternative 1 were found to be too speculative for meaningful significance conclusions.

Implementation of Alternative 2 would require relocation of a portion of the Lake Tahoe Golf Course to allow for geomorphic restoration of the river, to reduce the area of the Stream Environment Zone occupied by the golf course, and to allow for establishment of a riparian habitat zone and buffer area between the golf course and the river. Implementing Alternative 2 would result in the following significant and unavoidable project-related and cumulative impacts: Short-term risk of surface water or groundwater degradation during construction and short-term risk of surface water or groundwater degradation following construction. In addition, the cumulative effects of Alternative 2 on modifications in Upper Truckee River coarse sediment transport and delivery downstream and operations-related green house gas (GHG) emissions were found to be too speculative for meaningful significance conclusions.

Alternative 3 would include full geomorphic and ecosystem restoration of the Upper Truckee River and provision of a reduced-play golf course. This alternative would result in the same significant and unavoidable project-related and cumulative impacts discussed above for Alternative 2 and the same cumulative effects would be too speculative for meaningful significance conclusions. In addition, Alternative 3 would have a significant unavoidable impact related to a reduction in recreation opportunities, uses, and golf- related experiences due to the reduced-play golf course. Although golfing opportunities would still exist under Alternative 3, the existing golf experience at the Lake Tahoe Golf Course would be substantially reduced. Alternative 3 would also result in an adverse economic impact on both the community of South Lake Tahoe and State Parks. This impact would not contribute to a cumulative effect on golf recreation.

Alternative 4 would use a combination of hard and soft stabilization to keep the river in its present configuration and includes only minor changes to the existing golf course. This alternative would result in the same significant and unavoidable project-related and cumulative impacts and cumulative effects that would be too speculative for meaningful consideration discussed above for Alternative 2.

Alternative 5 would involve decommissioning and removing the 18-hole regulation golf course to restore all or a portion of the golf course footprint to meadow and riparian habitat. This alternative would result in the same significant and unavoidable project-related and cumulative impacts discussed above for Alternative 3. Alternative 5 would also result in cumulative effects on modifications in Upper Truckee River coarse sediment transport and delivery downstream and operation-related GHG emissions that were found to be too speculative for meaningful consideration.

Beneficial Effects

Implementation of Alternative 1 (No-Project/No-Action) would not result in any changes within the study area; therefore, this alternative would not result in any project-related beneficial effects.

Implementing Alternative 2 would result in project-related beneficial effects on long-term increase in peak flows generated or released downstream, long-term increase in overbanking during small to moderate flood events, long-term modification of groundwater levels and flow patterns, long-term increased surface/soil erosion within the study area, fine sediment and nutrient retention within the study area, long-term changes to fish and aquatic habitat, long-term effects on sensitive habitats and special-status plant species, effects on potential wildlife movement corridors, and land coverage changes. Alternative 2 would also result in the following cumulative beneficial effects: Long-term modified groundwater levels and flow patterns, long-term stream channel erosion, long-term fine sediment and nutrient retention, long-term effects on fisheries and aquatic resources, effects on special-status plants and sensitive habitats, effects on common or special-status wildlife resources. Implementing Alternative 2 would assist in the long-term productivity of the Lake Tahoe Golf Course while restoring the river and reducing sediment delivery to the lake, which would help to sustain and support the social and economic health of the South Lake Tahoe area by providing an improved 18-hole regulation golf course. The golf course would support seasonal tourism in the South Lake Tahoe area, which would provide an economic benefit to the Lake Tahoe business community and foster employee retention.

Alternative 3 would result in the same project-related and cumulative beneficial effects as discussed above for Alternative 2 except for long-term increased surface/soil erosion within the study area. In addition, Alternative 3 would result in a beneficial effect on long-term increase in stormwater runoff volumes, long-term reduction of irrigation water demand, and long-term effects on special-status and common wildlife species and habitats. Alternative 3 would not include the same social and economic benefits found under Alternative 2.

Implementation of Alternative 4 would result in project-related and cumulative beneficial effects on long-term changes to fish and aquatic habitat, long-term effects on sensitive habitats and special-status plant species, long-term effects on special-status and common wildlife species and habitats, and potential wildlife movement corridors.

Alternative 5 would result in the same project-related and cumulative beneficial effects as discussed above for Alternative 3.

The draft EIR/EIS is being distributed to interested agencies, stakeholder organizations, and individuals. This distribution ensures that interested parties have an opportunity to express their views regarding the environmental effects of the project, and to ensure that information pertinent to permits and approvals is provided to decision makers for the lead agencies, CEQA, NEPA, and TRPA responsible agencies.

Hearing Process and Distribution Information

A public hearing on the draft EIR/EIS will be conducted by State Parks, Reclamation, and TRPA. It is not necessary to provide testimony during the public hearing; comments on the draft EIR/EIS will be accepted throughout the meeting and will be recorded at the public comment table. Comments may also be submitted throughout the comment period as described above. Once all comments have been assembled and reviewed, responses will be prepared to address significant environmental issues that have been raised in the comments.

Special Assistance for the Public Hearing

If special assistance is required to participate in the public hearing, please contact Myrnie Mayville at 775–589–

5240, TDD 916–978–5608, or via e-mail at *mmayville@usbr.gov.* Please notify Ms. Mayville as far in advance as possible to enable Reclamation to secure the needed services. If a request cannot be honored, the requestor will be notified. A telephone device for the hearing impaired (TDD) is available at 916–978–5608.

Public Disclosure

Before including your name, address, phone number, e-mail address, or other personal identifying information in any correspondence, you should be aware that your entire correspondence—including your personal identifying information—may be made publicly available at any time. While you may ask us in your correspondence to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: July 14, 2010.

Pablo R. Arroyave,

Deputy Regional Director, Mid-Pacific Region.

[FR Doc. 2010–21141 Filed 8–24–10; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLUTG01100–09–L13100000–EJ0000]

Notice of Intent To Prepare an Environmental Impact Statement and To Conduct Public Scoping for the Monument Butte Area Oil and Gas Development Project, Duchesne and Uintah Counties, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, the Bureau of Land Management (BLM), Vernal Field Office, Vernal, Utah, will prepare an Environmental Impact Statement (EIS) to study the impacts of various development alternatives for oil and natural gas resources in the Monument Butte Area. This notice announces the public scoping period.

DATES: A 30-day public scoping period will commence the date this notice is published in the **Federal Register**. Comments on issues, potential impacts, or suggestions for alternatives can be submitted in writing to the address listed below by September 24, 2010. Public meetings will be conducted during the scoping period in Duchesne and Vernal, Utah. The date, place, and time will be announced through the local news media and the BLM Web site *http://www.blm.gov/ut/st/en/fo/vernal/planning.html* at least 15 days prior to the meetings.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Mail:* Bureau of Land Management, Vernal Field Office, 170 South 500 East, Vernal, Utah 84078.
- *E-mail:* *UT_Vernal_Comments@blm.gov*.
- *Fax:* (435) 781–4410.

FOR FURTHER INFORMATION CONTACT: Mark Wimmer, BLM Project Lead, at (435) 781–4400.

SUPPLEMENTARY INFORMATION: This document provides notice that the BLM Vernal Field Office, Vernal, Utah, intends to prepare an EIS and hold a public scoping period. The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis and EIS alternatives. You may submit comments in writing to the BLM at the public scoping meetings, or you may submit them to the BLM using one of the methods listed in the **ADDRESSES** section above. The public is encouraged to participate during the scoping process to help identify issues of concern related to the proposed action, determine the depth of the analysis needed for issues addressed in the EIS, identify potential mitigation measures, and identify reasonable alternatives to be evaluated in the EIS.

When submitting your comments, please reference the Monument Butte EIS for BLM's recordkeeping purposes. 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.

The Vernal Field Office's Approved Resource Management Plan, RMP, (October 2008) directs the management of BLM-administered public lands within the analysis area. Implementation of oil and gas development in the Monument Butte Project Area would conform to all applicable conditions and requirements in the Vernal RMP.

The project and EIS will encompass approximately 119,830 acres in Duchesne and Uintah Counties, Utah. The project is located on lands administered by the BLM (103,912 acres), the BIA-Uintah and Ouray Agency (36 acres), the State of Utah (12,866 acres), and private interests (3,016 acres). Mineral interests are owned by the BLM (89 percent), the State of Utah (10 percent), and private interests (less than 1 percent).

The Monument Butte oil and gas field has been largely developed. The proposed action consists of secondary recovery using waterflood methods and deep gas drilling. Waterflood methods involve the injection of water through formerly producing or new wells into the oil-producing geologic formation. Nearby actively producing wells then extract the hydrocarbons through the formation as the water displaces the oil. In addition to waterflood plans, some portions of the project area along the northwest and southern project boundaries would be subject to step out development (expansion away from existing development).

Integral to the project is the phased installation of a field electrification system in the project area to be completed over approximately 7 years. Electrical power would then be used to run water treatment and injection facilities, centralized tank batteries, compressor stations, engines and turbines at the proposed gas processing plant, and at most well site facilities to power dehydrators, separators, and pump jacks.

The project includes a total of 5,750 wells consisting of: 750 vertical oil wells (to be converted to injection wells for waterflood recovery), 2,500 directional oil wells, 2,500 vertical deep gas wells, 238 miles of new access road, 361 miles of upgraded road, 599 miles of rights-of-way (some collocated with roads), 20 new compressor stations, expansion of 3 existing compressor stations, 8 new and expansion of 6 existing electric water treatment and injection facilities, 12 new and expansion of 2 existing centralized tank batteries, 1 new 50 MMscf/d (Million standard cubic feet per day) centralized gas processing plant, 599 miles of overhead or buried electrical distribution/transmission lines for field-wide electrification, 1 freshwater collector well for waterflood operations, and 6 new 200-hp water pump stations.

The following resources have been identified by the Vernal Field Office as potentially impacted by the Monument Butte Project: Air quality, cultural resources, livestock grazing, paleontological resources, recreation, socioeconomics, soil resources, Pariette and Lower Green River Areas of Critical Environmental Concern, suitable Lower

Green River Wild and Scenic River segment, wilderness characteristics, threatened or endangered plant species, vegetation, visual resources, water resources, and wildlife. This is not an all-inclusive list, but rather a starting point for public input and a means of identifying resource disciplines needed to conduct the analysis.

Juan Palma,

State Director.

[FR Doc. 2010–21184 Filed 8–24–10; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–R–2009–N272; 40136–1265–0000–S3]

Black Bayou Lake National Wildlife Refuge, Ouachita Parish, LA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability: Final comprehensive conservation plan and finding of no significant impact.

SUMMARY: We, the 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 for Black Bayou Lake National Wildlife Refuge (NWR). In the final CCP, we describe how we will manage this refuge for the next 15 years.

ADDRESSES: You may obtain a copy of the CCP by writing to: Mr. George Chandler, North Louisiana National Wildlife Refuge Complex, 11372 Highway 143, Farmerville, LA 71241. The CCP may also be accessed and downloaded from the Service's Web site: *http://southeast.fws.gov/planning/* under "Final Documents."

FOR FURTHER INFORMATION CONTACT: Mr. George Chandler; telephone: 318–726–4222; fax: 318–726–4667; e-mail: *george_chandler@fws.gov.*

SUPPLEMENTARY INFORMATION

Introduction

With this notice, we finalize the CCP process for Black Bayou Lake NWR. We started this process through a notice in the **Federal Register** on May 8, 2008 (73 FR 26139).

The Black Bayou Lake NWR is a unit of the North Louisiana National Wildlife Refuge Complex. In addition to Black Bayou Lake NWR, the Complex includes D'Arbonne, Upper Ouachita, Handy Brake, and Red River NWRs, and the Louisiana Farm Service Agency Tracts. Each refuge has unique issues and has had separate planning efforts and public involvement.

The Black Bayou Lake NWR plays an important role regionally in fulfilling the national goals of the National Wildlife Refuge System. Its close proximity to a major metropolitan center gives the public the ability to participate in educational opportunities that promote wildlife stewardship and to learn about environmental issues.

Black Bayou Lake NWR, established in 1997, is 3 miles north of the city of Monroe, Louisiana, just east of Highway 165 in Ouachita Parish. It contains 4,522 acres of wetland, bottomland hardwood, and upland mixed pine/hardwood habitats. Although the suburban sprawl of the city of Monroe surrounds much of its boundary, the refuge itself represents many habitat types and is home to a diversity of plants and animals. Black Bayou Lake NWR is situated in the Mississippi Flyway, the Mississippi Alluvial Valley Bird Conservation Region, and the Lower Mississippi River Ecosystem.

Black Bayou Lake NWR was established for "the conservation of the wetlands of the nation in order to maintain the public benefits they provide and to help fulfill international obligations contained in various migratory bird treaties and conventions" 16 U.S.C. 3901 (b) (Wetlands Extension Act).

The central physical feature of the refuge is the lake itself. Black Bayou Lake, consisting of approximately 1,500 acres, is studded with baldcypress and water tupelo trees. The western half of the lake is open and deeper, unlike the eastern side, which is thick with trees and emergent vegetation. This portion of the lake is naturally filling in. The lake is owned by the city of Monroe, which manages its water level as a secondary source of municipal water. The Service has a 99-year free lease on the lake and some of its surrounding land, constituting a total of 1,620 acres. The refuge owns the remaining 2,902 acres, consisting of upland pine/hardwood and bottomland hardwood forests.

We announce our decision and the availability of the final CCP and FONSI for Black Bayou Lake NWR in accordance with the National Environmental Policy Act (NEPA) [40 CFR 1506.6(b)] requirements. We completed a thorough analysis of impacts on the human environment, which we included in the Draft Comprehensive Conservation Plan and Environmental Assessment (Draft CCP/EA). The CCP will guide us in managing and administering Black Bayou Lake NWR for the next 15 years. Alternative B is the foundation for the CCP.

The compatibility determinations for wildlife observation and photography; environmental education and interpretation; big game hunting; small game hunting; migratory bird hunting; fishing; hiking, jogging, and walking; boating; all-terrain vehicles; plant gathering; bicycling; and forest management/timber harvest are available in the 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 in 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, wildlife photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Administration Act.

Comments

We made copies of the Draft CCP/EA available for a 30-day public review and comment period via a **Federal Register** notice on September 20, 2009 (74 FR 50237). We received four comments on the Draft CCP/EA.

Selected Alternative

The Draft CCP/EA identified and evaluated three alternatives for managing the refuge. After considering the comments we received and based on the professional judgment of the planning team, we selected Alternative B for implementation.

Under Alternative B, biological potential of historical habitats will be restored and enhanced, with most management actions emphasizing natural ecological processes to foster habitat functions and wildlife populations. We will focus our efforts on reducing invasive species threatening the biological integrity of the refuge. Baseline inventorying and monitoring of management actions will

be completed to gain information on a variety of species from reptiles and amphibians to game animals, as well as species of concern. Several cooperative projects will be conducted with universities, the Louisiana Department of Wildlife and Fisheries, and other agencies and individuals to provide biological information to be used in management decisions. To determine how forest management is affecting wildlife, partnerships will be developed to establish scientifically valid protocols and to collaboratively work on research projects. Upland forest management will focus on restoring the biological integrity of a mixed hardwood/pine forest by promoting upland hardwood species. We will increase our management of bottomlands to open canopy cover and increase understory vegetation. Water control structures and pumping capabilities will be improved to enhance moist-soil management for the benefit of wintering waterfowl and shorebirds. Invasive species will be mapped and protocols for control established. Partnerships will continue to be fostered for several biological programs, hunting regulations, law enforcement issues, and research projects.

Public use will be similar to current management, with a few improvements based on additional resources. Environmental education will increase from the current conditions only slightly. The program will be enhanced and improved with the addition of two park rangers (visitor services and law enforcement). Within 3 years of the date of the CCP, we will develop a Visitor Services Plan to be used in maintaining quality public use facilities and opportunities at Black Bayou Lake NWR.

Staffing will increase by four positions: A full-time law enforcement officer, a refuge operations specialist, a maintenance worker, and a park ranger (Visitor Services). This will enable us to increase biological inventorying and monitoring, enhance forest management, increase invasives control, enhance the public use program, and provide safe and compatible wildlife-dependent recreation.

Authority

This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: January 13, 2010.

Jeffrey M. Fleming,

Acting Regional Director.

[FR Doc. 2010–21121 Filed 8–24–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Repatriate Cultural Items: Memphis Pink Palace Museum, Memphis, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the Memphis Pink Palace Museum, Memphis, TN, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

The 92 unassociated funerary objects are whole and restored ceramic vessels from the Bradley site (3CT7), Crittenden County, AR. The collection was acquired as a donation from a private individual in 1958.

The Bradley site was a village or town of the late Mississippian and proto-historic periods, located in Crittenden County, northeast Arkansas. Archeological evidence indicates that the site was occupied during the Nodena phase (A.D. 1350–1650). Funerary objects removed from the site have been dated to the period from A.D. 1350–1650. The Bradley site is thought to be the capital of "Pacaha" identified in the DeSoto chronicles. Historical documentation indicates that this site dates into the 17th century and close to the time when the Quapaw Tribe was documented by early Europeans. Linguistic evidence indicates a possible link between "Capaha" (a.k.a. Pacaha) in a Spanish account, and a late 17th century Quapaw Indian village name "Kappah" or "Kappa." French maps and documents (A.D. 1673–1720), indicate that only the Quapaw had villages in this area of eastern Arkansas. Oral traditional evidence indicates that the Quapaw had a continuous presence in the area, including hunting lands, and that burial practices such as placement of food with the dead continues to be an important burial ritual.

Archeological, historical and ethnographic sources indicate that the type of pottery found at the Bradley site was produced by the Quapaw (Morse 1992). Descendants of the Quapaw are members of the Quapaw Tribe of Indians, Oklahoma. Finally, the Quapaw Tribe of Indians, Oklahoma, through the NAGPRA process, have previously been determined to be culturally affiliated with the Bradley site and have repatriated Native American human remains and associated funerary objects from the site.

Officials of the Memphis Pink Palace Museum have determined that, pursuant to 25 U.S.C. 3001(3)(B), the 92 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the Memphis Pink Palace Museum also have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Quapaw Tribe of Indians, Oklahoma.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary objects should contact Louella Weaver, Memphis Pink Palace Museum, 3050 Central Ave., Memphis, TN 38111, telephone (901) 320–6322, before September 24, 2010. Repatriation of the unassociated funerary objects to the Quapaw Tribe of Indians, Oklahoma, may proceed after that date if no additional claimants come forward.

The Memphis Pink Palace Museum is responsible for notifying the Quapaw Tribe of Indians, Oklahoma, that this notice has been published.

Dated: August 19, 2010

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2010–21191 Filed 8–24–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Department of Anthropology and Ethnic Studies, University of Nevada Las Vegas, Las Vegas, NV

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the

completion of an inventory of human remains and associated funerary objects in possession of the Department of Anthropology & Ethnic Studies, University of Nevada Las Vegas, Las Vegas, NV. The human remains and associated funerary objects were removed from Churchill, Ely, Lincoln, Nye, Pershing, Washoe and White Pine Counties, NV.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the Department of Anthropology & Ethnic Studies, University of Nevada Las Vegas, professional staff in consultation with representatives of the Great Basin Inter-Tribal NAGPRA Coalition, a non-Federally recognized Indian group, which represents the Inter-Tribal Council of Nevada, a non-Federally recognized Indian group, and the following Federally-recognized Indian tribes: Alturas Indian Rancheria, California; Battle Mountain Shoshone Tribe (Constituent Band of the Te-Moak Tribe of Western Shoshone Indians of Nevada); Big Pine Paiute Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation, California; Bridgeport Paiute Indian Colony of California; Burns Paiute Tribe, California; Chemehuevi Indian Tribe of the Chemehuevi Reservation, California; Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada; Ely Shoshone Tribe of Nevada; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada; Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California; Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Reno-Sparks Indian Colony, Nevada; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; South Fork Band (Constituent Band of the Te-Moak Tribe of Western Shoshone Indians of Nevada); Susanville Indian Rancheria, California; Te-Moak Tribe of Western Shoshone Indians of Nevada; Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada; and Yomba Shoshone Tribe of the Yomba Reservation, Nevada. Direct consultation was made with the Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada; Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; and Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada.

At an unknown date, human remains representing a minimum of one individual were removed from near Hiko, Lincoln County, NV, by Richard Brooks during an archeological excavation project (AHUR 141). According to the notes associated with the human remains, a wooden pipe was recovered with the remains, though the whereabouts of the pipe is unknown. No known individual was identified. No associated funerary objects are present.

Analysis determined that the human remains are that of a pre-contact or early historic Native American adult male. No other information is available regarding the circumstances surrounding their removal.

At an unknown date, human remains representing a minimum of one individual were collected near the Carson River, six miles southwest of Fallon, Churchill, NV, by two men who were out rabbit hunting (FHUR 39). Records indicate that human remains were found partially buried in a sand hill. The find was reported to the Churchill County sheriff, who collected the remains and transferred them to the University of Nevada Las Vegas. No known individual was identified. The six associated funerary objects are one woven textile, one leather strip, nail, two 4–hole buttons and one bag of dirt containing fiber material.

Analysis determined that the human remains are that of a Native American male between 30 and 40 years of age.

At an unknown date, human remains representing a minimum of one individual were collected from near Ely, White Pine County, NV (FHUR 41). No known individual was identified. No associated funerary objects are present.

Analysis determined that the human remains are that of a pre-contact or early historic Native American adult male. No other information is available regarding the circumstances surrounding their removal, but records indicate they were transferred to the University of Nevada Las Vegas in 1988.

At an unknown date, human remains representing an adult male were collected from near Warm Springs, Nye County, NV (FHUR 42). No known individual was identified. No associated funerary objects are present.

Analysis determined that the human remains are that of a pre-contact Native American male between the 35 and 45 years of age. No other information is available regarding the circumstances surrounding their removal.

On May 13, 1978, human remains representing a minimum of one individual were collected from a gravel pit located, approximately one mile northeast of Wadsworth, Washoe County, NV (FHUR 57). No known individual was identified. No associated funerary objects are present.

Analysis determined that the human remains are that of a pre-contact or early historic Native American adult male. No other information is available regarding the circumstances surrounding their removal.

On April 28, 1991, human remains representing a minimum of one individual were collected from a soil embankment northeast of State Route 466 near Nixon, Washoe County, NV (FHUR 59). The remains were found by a Paula Wright and Kenneth Paul, who reported it o the Washoe County Sheriff's Office, Bureau of Indian Affairs, and the Pyramid Lake Paiute Rangers. The remains were subsequently collected, examined by the county coroner, and transferred to the University of Nevada Las Vegas. No known individual was identified. No associated funerary objects are present.

Analysis determined that the human remains are that of a pre-contact or early historic Native American adult male.

Archeological, linguistic, and oral historical evidence suggests that the geographical area where the above-mentioned human remains were found was occupied by Western Shoshone and Paiute groups during pre-contact and early historic times. Therefore, museum officials reasonably believe the human remains and associated funerary objects to be culturally affiliated to Western Shoshone and Paiute Indian tribes. Descendants of the Western Shoshone and Paiute are represented by the Alturas Indian Rancheria, California; Battle Mountain Shoshone Tribe (Constituent Band of the Te-Moak Tribe of Western Shoshone Indians of Nevada); Big Pine Paiute Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation, California; Bridgeport Paiute Indian Colony of California; Buena Vista Rancheria of the Me-Wuk Indians of California; Burns Paiute Tribe, California; Cedarville Rancheria, California; Chemehuevi Indian Tribe of the Chemehuevi Reservation, California; Confederated Tribes of the Goshute Reservation, Nevada and Utah; Death Valley Timibi-Sha Shoshone Band of California; Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada; Elko Band (Constituent Band of the Te-Moak Tribe of Western Shoshone Indians of Nevada); Ely Shoshone Tribe of Nevada; Fort Independence Indian Community

of Paiute Indians of the Fort Independence Reservation, California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Arizona; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Northwestern Band of Shoshoni Nation of Utah (Washakie); Paiute Indian Tribe of Utah; Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California; Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Paiute-Shoshone Tribe of the Lone Pine Community of the Lone Pine Reservation, California; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Reno-Sparks Indian Colony, Nevada; San Juan Southern Paiute Tribe of Arizona; Shoshone Tribe of the Wind River Reservation, Wyoming; Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; South Fork Band (Constituent Band of the Te-Moak Tribe of Western Shoshone Indians of Nevada); Summit Lake Paiute Tribe of Nevada; Susanville Indian Rancheria, California; Te-Moak Tribe of Western Shoshone Indians of Nevada; Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California; Walker River Paiute Tribe of the Walker River Reservation, Nevada; Washoe Tribe of Nevada and California; Wells Band (Constituent Band of the Te-Moak Tribe of Western Shoshone Indians of Nevada); Winnemucca Indian Colony of Nevada; Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada; and Yomba Shoshone Tribe of the Yomba Reservation, Nevada.

Officials of the Department of Anthropology & Ethnic Studies, University of Nevada Las Vegas, have determined that, pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of six individuals of Native American ancestry. Officials of the Department of Anthropology & Ethnic Studies, University of Nevada Las Vegas, also have determined that, pursuant to 25 U.S.C. 3001(3)(A), the six objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Department of Anthropology & Ethnic Studies, University of Nevada Las Vegas, have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and Alturas Indian Rancheria, California; Battle Mountain Shoshone Tribe; Big Pine Paiute Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation, California; Bridgeport Paiute Indian Colony of California; Buena Vista Rancheria of the Me-Wuk Indians of California; Burns Paiute Tribe, California; Cedarville Rancheria, California; Chemehuevi Indian Tribe of the Chemehuevi Reservation, California; Confederated Tribes of the Goshute Reservation, Nevada and Utah; Death Valley Timibi-Sha Shoshone Band of California; Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada; Elko Band; Ely Shoshone Tribe of Nevada; Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Arizona; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Northwestern Band of Shoshoni Nation of Utah (Washakie); Paiute Indian Tribe of Utah; Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California; Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Paiute-Shoshone Tribe of the Lone Pine Community of the Lone Pine Reservation, California; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Reno-Sparks Indian Colony, Nevada; San Juan Southern Paiute Tribe of Arizona; Shoshone Tribe of the Wind River Reservation, Wyoming; Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; South Fork Band; Summit Lake Paiute Tribe of Nevada; Susanville Indian Rancheria, California; Te-Moak Tribe of Western Shoshone Indians of Nevada; Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California; Walker River Paiute Tribe of the Walker River Reservation, Nevada; Washoe Tribe of Nevada and California; Wells Band; Winnemucca Indian Colony of Nevada; Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada; and Yomba Shoshone Tribe of the Yomba Reservation, Nevada.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Dr. Karen Harry, Department of Anthropology & Ethnic Study, University of Nevada Las Vegas, 4505 Maryland Parkway, Box 455003, Las Vegas, NV 89154–5003, telephone (702) 895–2534, before September 24, 2010. Repatriation of the human remains and associated funerary objects to the Alturas Indian Rancheria, California; Battle Mountain Shoshone Tribe; Big Pine Paiute Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation, California; Bridgeport Paiute Indian Colony of California; Buena Vista Rancheria of the Me-Wuk Indians of California; Burns Paiute Tribe, California; Cedarville Rancheria, California; Chemehuevi Indian Tribe of the Chemehuevi Reservation, California; Confederated Tribes of the Goshute Reservation, Nevada and Utah; Death Valley Timibi-Sha Shoshone Band of California; Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada; Elko Band; Ely Shoshone Tribe of Nevada; Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Arizona; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Northwestern Band of Shoshoni Nation of Utah (Washakie); Paiute Indian Tribe of Utah; Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California; Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Paiute-Shoshone Tribe of the Lone Pine Community of the Lone Pine Reservation, California; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Reno-Sparks Indian Colony, Nevada; San Juan Southern Paiute Tribe of Arizona; Shoshone Tribe of the Wind River Reservation, Wyoming; Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; South Fork Band; Summit Lake Paiute Tribe of Nevada; Susanville Indian Rancheria, California; Te-Moak Tribe of Western Shoshone Indians of Nevada; Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California; Walker River Paiute Tribe of the Walker River Reservation, Nevada; Washoe Tribe of Nevada and California;

Wells Band; Winnemucca Indian Colony of Nevada; Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada; and Yomba Shoshone Tribe of the Yomba Reservation, Nevada, may proceed after that date if no additional claimants come forward.

The Department of Anthropology & Ethnic Studies, University of Nevada Las Vegas, is responsible for notifying officials of the Alturas Indian Rancheria, California; Battle Mountain Shoshone Tribe; Big Pine Paiute Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation, California; Bridgeport Paiute Indian Colony of California; Buena Vista Rancheria of the Me-Wuk Indians of California; Burns Paiute Tribe, California; Cedarville Rancheria, California; Chemehuevi Indian Tribe of the Chemehuevi Reservation, California; Confederated Tribes of the Goshute Reservation, Nevada and Utah; Death Valley Timibi-Sha Shoshone Band of California; Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada; Elko Band; Ely Shoshone Tribe of Nevada; Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Arizona; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Northwestern Band of Shoshoni Nation of Utah (Washakie); Paiute Indian Tribe of Utah; Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California; Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Paiute-Shoshone Tribe of the Lone Pine Community of the Lone Pine Reservation, California; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Reno-Sparks Indian Colony, Nevada; San Juan Southern Paiute Tribe of Arizona; Shoshone Tribe of the Wind River Reservation, Wyoming; Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; South Fork Band; Summit Lake Paiute Tribe of Nevada; Susanville Indian Rancheria, California; Te-Moak Tribe of Western Shoshone Indians of Nevada; Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California; Walker River Paiute Tribe of the Walker River Reservation, Nevada; Washoe Tribe of Nevada and California; Wells Band; Winnemucca Indian Colony of Nevada; Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada; and Yomba Shoshone Tribe of the Yomba Reservation, Nevada, that this notice has been published.

Dated: August 19, 2010

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2010–21195 Filed 8–24–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Memphis Pink Palace Museum, Memphis, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Memphis Pink Palace Museum, Memphis, TN. The human remains were removed from Crittenden, Cross, Poinsett, and St. Francis Counties, AR; Coahoma and Desoto Counties, MS; and Tipton County, TN.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Memphis Pink Palace Museum professional staff and consultants in consultation with representatives of the Quapaw Tribe of Indians, Oklahoma.

On an unknown date, human remains representing a minimum of three individuals were removed from the Bradley site (3CT7), Crittenden County, AR, by Mr. J.E. Boone, an avocational archeologist. The human remains were kept in Mr. Boone's private collection until they were donated to the museum in 1983 and 1984 (Accn. #1983.74.1, 1984.8.49, and 1984.8.50). No known individuals were identified. No associated funerary objects are present.

In 1972, human remains representing a minimum of one individual were removed from the Togo site (3CS24), Cross County, AR, during amateur excavations. The human remains were donated to the museum by Ms. Dorothy Strum (Accn. #1972.31.737). No known individual was identified. No associated funerary objects are present.

On an unknown date, human remains representing a minimum of one individual were removed from the Taylor site (possibly also known as Taylor's Shanty), Poinsett County, AR, by Mr. Boone. The human remains were kept in his private collection until they were donated to the museum in 1984 (Accn. #1984.8.51). No known individual was identified. No associated funerary objects are present.

On an unknown date, human remains representing a minimum of one individual were removed from the Hughes Plantation near Hughes, St. Francis County, AR, by Mr. Dallas Gatewood III, an avocational archeologist. In 1984, Mr. Gatewood III donated the human remains to the museum (Accn. #1971.32.3). No known individual was identified. No associated funerary objects are present.

In 1951, human remains representing a minimum of one individual were removed from the Pelegrin site, which is a component of the Carson Mounds, near Clarksdale, in Coahoma County, MS, during a field trip sponsored by the Memphis Archaeological and Geological Society. The human remains were accessioned by the museum in 1952 (Accn. #1952.2). No known individual was identified. No associated funerary objects are present.

Prior to 1972, human remains representing a minimum of six individuals were removed near the Walls site (22DS500), DeSoto County, MS, during amateur excavations. The human remains were donated to the museum in 1972 (Accn. #1972.28.1–5). No known individuals were identified. No associated funerary objects are present.

In the 1930s, human remains representing a minimum of four individuals were removed from the Bishop site (40TP10), also called "Big Hatchie Mound," Tipton County, TN, by Elbert L. Roper, an avocational archeologist. Mr. Roper excavated Hatchie River bottoms in Lauderdale and Tipton Counties. Dr. Robert Mainfort of the Arkansas Archaeological Survey stated, "Roper referred to the Hatchie River bottoms in Lauderdale and Tipton counties as the 'Big Hatchie Country' and I think that 'mound' just got added on. Certainly the bulk of his stuff is from Morgan's Point/Bishop (40TP10)." The human remains were loaned to the museum in 1939, and the loan was converted to a gift in 1969 (Accn. #1969.17.4–7). No known

individuals were identified. No associated funerary objects are present.

Based on the skeletal and dental morphology, as well as accession records, officials of the Memphis Pink Palace Museum have determined that the above-mentioned human remains are Native American. Based on the ceramic styles and construction of pottery related to the sites, but that are not associated funerary objects, the human remains can be associated with the Nodena, Parkin and Walls Phases of the Late Mississippian and proto-historic periods (A.D. 1350–1650).

Oral traditional and archeological evidence indicate that the Quapaw occupied and hunted in the central Mississippi Valley, including the modern city of Memphis, TN, for generations prior to European contact. Historical documentation identifies Quapaw villages located on both sides of the Mississippi River in the Central Mississippi Valley as early as the mid–1500s. Based on historical and archeological evidence, the Bradley site (3CT7) has been identified as Pacaha, the principal town of the Pacaha chiefdom during the DeSoto entrada in Arkansas (A.D. 1541–1543). Linguistic evidence indicates a possible link between the "Capaha" (a.k.a. Pacaha) in a Spanish account, and a late 17th century Quapaw Indian village name "Kappaha" or "Kappa." French maps and documents (A.D. 1673–1720), indicate that only the Quapaw had villages on both sides of the Mississippi River in eastern Arkansas and western Mississippi, and much of northeastern Arkansas was hunting territory. Therefore, the sites are within the traditional territory of the Quapaw. Descendants of the Quapaw are members of the Quapaw Tribe of Indians, Oklahoma. Finally, the Quapaw Tribe of Indians, Oklahoma, under the NAGPRA process, have previously repatriated Native American human remains and associated funerary objects, and have been determined to be culturally affiliated with the cultural assemblages found on archeological sites related to Nodena, Parkin and Walls phases.

Officials of the Memphis Pink Palace Museum have determined that, pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of 17 individuals of Native American ancestry. Officials of the Memphis Pink Palace Museum also have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Quapaw Tribe of Indians, Oklahoma.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Louella Weaver, Memphis Pink Palace Museum, 3050 Central Ave., Memphis, TN 38111, telephone (901) 320–6322, before September 24, 2010. Repatriation of the human remains to the Quapaw Tribe of Indians, Oklahoma, may proceed after that date if no additional claimants come forward.

The Memphis Pink Palace Museum is responsible for notifying the Quapaw Tribe of Indians, Oklahoma, that this notice has been published.

Dated: August 19, 2010

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2010–21186 Filed 8–4–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Homer Society of Natural History, Pratt Museum, Homer, AK

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Homer Society of Natural History, Pratt Museum, Homer, AK. The human remains were removed from Kachemak Bay, AK.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Pratt Museum professional staff in consultation with representatives of the Kenaitze Indian Tribe and the Seldovia Village Tribe.

In the summers of 1987 and 1988, human remains representing five individuals were removed from the Point West of Halibut Cove Site (SEL–010), formally known as Calhoun's Point, in Kachemak Bay, AK. The Pratt Museum sponsored the excavation of SEL–010, an archeological site on private land. No known individuals were identified. No associated funerary objects are present.

The Point West of Halibut Cove Site dates to A.D. 1260 – A.D. 1418, and has two components. The site includes a Precontact period Dena'ina house built into a prehistoric Marine Kachemak tradition (Sugpiaq Alutiiq tradition) midden. Two burials were inside the midden. Once the crew determined that they were human, the remains were covered and excavation in that area ceased. No funerary artifacts were seen or removed. The human remains from the excavation in the Pratt Museum are isolates from the middle of a midden that consisted of thousands of animal bones and shell fragments, and some artifacts. As the human remains do not comprise a burial, these artifacts are not considered to be funerary objects.

In the 1970s, human remains representing a minimum of one individual were removed from Kachemak Bay, AK. No known individual was identified. No associated funerary objects are present.

In the 1980s, human remains representing a minimum of one individual were removed from the surface of a beach on Kachemak Bay, AK, by a private individual. The human remains were given to the education department, but were never accessioned. In 2010, the human remains were found in the education department's collection. No known individual was identified. No associated funerary objects are present.

In the 1990s, human remains representing a minimum of one individual were removed from near Cottonwood Creek Bluff, Kachemak Bay, AK, by a private individual. No known individual was identified. No associated funerary objects are present.

The archeological and documentary evidence are in agreement that the Kachemak Bay was used by both the ancestors of the Seldovia Village (Dena'ina Athabascan and Sugpiaq Alutiiq) and Kenaitze Indian (Dena'ina Athabascan) tribal members. Kachemak Bay is the historically documented territory of both the Seldovia Village Tribe and Kenaitze Indian Tribe.

Officials of the Pratt Museum have determined that, pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of eight individuals of Native American ancestry. Officials of the Pratt Museum also have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the

Kenaitze Indian Tribe and Seldovia Village Tribe.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the Native American human remains should contact Dr. Cusack-McVeigh, Pratt Museum, 3779 Bartlett St., Homer, AK 99603, telephone (907) 235–8635, ext. 36, before September 24, 2010. Repatriation of the human remains to the Kenaitze Indian Tribe and the Seldovia Village Tribe may proceed after that date if no additional claimants come forward.

The Pratt Museum is responsible for notifying the Kenaitze Indian Tribe and the Seldovia Village Tribe that this notice has been published.

Dated: August 19, 2010

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2010–21190 Filed 8–24–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Oregon Museum of Science and Industry, Portland, OR

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and an associated funerary object in the possession of the Oregon Museum of Science and Industry, Portland, OR. The human remains were removed from an area in the vicinity of The Dalles, OR.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary object. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains and associated funerary object was made by Oregon Museum of Science and Industry professional staff in consultation with representatives of the Confederated Tribes of the Warm Springs Reservation of Oregon.

In the 1930s or early 1940s, human remains representing a minimum of one individual were removed from an area in the vicinity of the city of The Dalles, Wasco County, OR, by Alonzo Hancock. Mr. Hancock removed the remains after they had been excavated during construction work on the south side of a roadcut. The exact location of the road is unclear from museum records. Mr. Hancock donated the human remains to the Oregon Museum of Science and Industry in 1946. No known individual was identified. No associated funerary objects are present.

The human remains have been identified as Native American based on observable dental traits and museum documentation that refers to the human remains as "Chinook."

In the 1930s, human remains representing a minimum of one individual were removed from an area in the vicinity of the city of The Dalles, Wasco County, OR, by an unknown individual. The exact location of the area is unclear from museum records. The human remains were donated to the Oregon Museum of Science and Industry by an unknown individual sometime between the 1940s and the 1970s. No known individual was identified. The one associated funerary object is a copper earring.

The human remains have been identified as Native American based on observable dental traits and the type of associated funerary object.

The Dalles, OR, is within the traditional territory of the present-day Confederated Tribes of the Warm Springs Reservation of Oregon, which is composed of Wasco, Warm Springs, and Paiute bands and tribes. The Columbia River-based Wasco were the easternmost group of Chinookan-speaking Indians. The Sahaptin-speaking Warm Springs bands lived along the Columbia's tributaries. The Paiutes speak a Shoshonean dialect and traditionally lived in southeastern Oregon. The Confederated Tribes of the Warm Springs Reservation of Oregon peoples also traditionally shared this area with the fourteen Sahaptin-, Salish-, and Chinookan-speaking tribes and bands of the present-day Confederated Tribes and Bands of the Yakama Nation, Washington. The traditional territory of the Yakama included the Washington side of the Columbia River between the eastern slopes of the Cascade Range and the lower Yakima River watershed.

Officials of the Oregon Museum of Science and Industry have determined that, pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of two individuals of Native American ancestry. Officials of the Oregon Museum of Science and Industry also have determined that, pursuant to 25 U.S.C. 3001(3)(A), the one object described above is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Oregon Museum of Science and Industry have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary object and the Confederated Tribes of the Warm Springs Reservation of Oregon and the Confederated Tribes and Bands of the Yakama Indian Nation, Washington.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary object should contact Lori Erickson, Curator, Oregon Museum of Science and Industry, 1945 SE Water Ave., Portland, OR 97214, telephone (503) 797–4582, before September 24, 2010. Repatriation of the human remains and associated funerary object to the Confederated Tribes of the Warm Springs Reservation of Oregon and the Confederated Tribes and Bands of the Yakama Nation, Washington, may proceed after that date if no additional claimants come forward.

The Oregon Museum of Science and Industry is responsible for notifying the Confederated Tribes of the Warm Springs Reservation of Oregon and the Confederated Tribes and Bands of the Yakama Nation, Washington, that this notice has been published.

Dated: August 19, 2010

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2010–21188 Filed 8–24–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Wisconsin Historical Society, Museum Division, Madison, WI

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and an associated funerary object in the possession of the Wisconsin Historical Society (aka State Historical Society of Wisconsin), Museum Division, Madison, WI. The human remains and associated funerary

object are assumed to have been removed from Madeline Island, Ashland County, WI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary object. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was done by Wisconsin Historical Society professional staff in consultation with the Great Lakes Ojibwe Cultural Protection and Repatriation Alliance, a non-federally recognized Indian group, and the Wisconsin Inter-tribal Repatriation Committee, a non-federally recognized Indian group with Federally-recognized member Indian tribes (Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; St. Croix Chippewa Indians of Wisconsin; and the Sokaogon Chippewa Community, Wisconsin).

At an unknown date, human remains representing a minimum of one individual were most likely removed from Madeline Island, Ashland County, WI, possibly by Al Galazen. No known individual was identified. The one associated funerary object is a soil matrix, which includes within it a textile fragment, trade beads, nail fragments, and metal fragments.

In 2008, staff at the Madeline Island Museum located a box containing what appeared to be a soil matrix with burial related objects, including possible human remains. The box was transferred to the Wisconsin Historical Society, where professional staff examined the contents and positively identified the presence of human remains, representing a minimum of one individual. The textile fragment, beads, nails, and metal fragments were enveloped inside the soil matrix. Provenience information is limited to an inscription on the outside of the box, "Madeline Island Al Galazen." Al Galazen (1903–1992) was a well-known collector from Madeline Island who donated most of his personal collection of archeological materials to the Madeline Island Museum. The individual is believed to be of Native American ancestry, based on the presence of trade beads within the soil matrix and the known collecting practices of the presumed donor, Al Galazen. The contents of the soil matrix date to the Historic Period.

Consultation with the Great Lakes Ojibwe Cultural Protection and Repatriation Alliance and the Wisconsin Inter-tribal Repatriation Committee indicated that the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin, and Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin, are known to have inhabited the region during the Historic Period. Further consultation resulted in the identification of the Red Cliff and Bad River Bands as being direct descendents of Chief Buffalo and the occupants of the village on Madeline Island (Treaty of La Pointe, 1854). Finally, the Ojibwe bands consider Madeline Island to be sacred.

Officials of the Wisconsin Historical Society, Museum Division, have determined that, pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of the Wisconsin Historical Society, Museum Division, also have determined that, pursuant to 25 U.S.C. 3001(3)(A), the one object described above is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Wisconsin Historical Society, Museum Division, have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary object and the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin, and Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Jennifer L. Kolb, Wisconsin Historical Museum, 30 N. Carroll St., Madison, WI 53703, telephone (608) 261–2461, before September 24, 2010. Repatriation of the human remains and associated funerary object to the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin, and Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin, may proceed after that date if no additional claimants come forward.

The Wisconsin Historical Society, Museum Division, is responsible for notifying the Federally-recognized member Indian tribes of the Wisconsin Inter-tribal Repatriation Committee: Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; St. Croix Chippewa Indians of Wisconsin; and the Sokaogon Chippewa Community, Wisconsin; and the Great Lakes Ojibwe Cultural Protection and Repatriation Alliance, a non-federally recognized Indian group, that this notice has been published.

Dated: August 19, 2010

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2010–21192 Filed 8–24–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAK910000 L13100000.DB0000 LXSINSSI0000]

Notice of Public Meeting, North Slope Science Initiative-Science Technical Advisory Panel

AGENCY: Bureau of Land Management, Alaska State Office, North Slope Science Initiative, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, North Slope Science Initiative (NSSI)-Science Technical Advisory Panel (STAP) will meet as indicated:

DATES: The meeting will be September 21–23, 2010, in Barrow, Alaska. The meeting begins each day at 9 a.m., in the Inupiat Heritage Center, Barrow, Alaska. The public can make comments between 3 p.m. and 4 p.m. on Wednesday, September 22, 2010.

FOR FURTHER INFORMATION CONTACT: John F. Payne, Executive Director, North Slope Science Initiative, AK–9 10, c/o Bureau of Land Management, 222 W. Seventh Avenue, #13, Anchorage, AK 99513, (907) 271–3431 or e-mail *john_f_payne@blm.gov.*

SUPPLEMENTARY INFORMATION: The NSSI STAP provides advice and recommendations to the NSSI Oversight

Group regarding priority needs for management decisions across the North Slope of Alaska. These priority needs may include recommendations on inventory, monitoring, and research activities that contribute to informed land management decisions. The topics at the meeting include:

- Emerging issue summaries from the STAP.
- Update on the land cover project.
- Update on the project tracking system and database.
- NSSI priority issues, projects and conference proposals.
- Other topics the Oversight Group or STAP may raise.

All meetings are open to the public. The public may present written comments to the Science Technical Advisory Panel through the Executive Director, North Slope Science Initiative. Each formal NSSI meeting allots time for public comment. Depending on time and the number of people wishing to comment, oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, transportation, or other reasonable accommodations, should contact the Executive Director, North Slope Science Initiative.

Before including your address, phone number, e-mail address, or other personal indentifying information in your comment, you should be aware that your entire comment—including your personal identifying information—might be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 18, 2010.

Julia Dougan,

Acting Alaska State Director.

[FR Doc. 2010–20955 Filed 8–24–10; 8:45 am]

BILLING CODE 1310–JA–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on August 19, 2010, a proposed Consent Decree in *United States and State of Texas* v. *Halliburton Energy Services, Inc., et al.,* Civil Action No. 4–07–CV–3795, was lodged with the United States District Court for the Southern District of Texas.

In this action the United States, on behalf of the United States Environmental Protection Agency, and the State of Texas, on behalf of the Texas Commission on Environmental Quality ("TCEQ"), sought, pursuant to Sections 107 and 113 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9607 and 9613, seeking reimbursement of response costs incurred or to be incurred for response actions taken at or in connection with the release or threatened release of hazardous substances at three facilities located in Webster, Texas (the "Webster Site"), Odessa, Texas (the "Odessa Site"), and Houston, Texas (the "Tavenor Site"), known collectively as the "Gulf Nuclear Sites" or "Sites" as well as declaratory relief.

The United States and the State have negotiated a consent decree with certain Defendants to resolve the CERCLA claims as well as the State law claims. The proposed Consent Decree resolves the liability of DII Industries, LLC, Halliburton Energy Services, Inc., NL Industries, Inc., and Precision Energy Services, Inc. for response costs incurred or to be incurred and response actions taken in connection with the Sites. Under the Consent Decree, Settling Defendants agree to reimburse the United States and the State a share of their response costs for the Sites with payments totaling the collective sum of $5,965,000 for the United States and $325,000 for the State. This Consent Decree includes a covenant not to sue by the United States and the State under Sections 106, 107 and 113 of CERCLA.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, NW., Washington, DC 20044–7611, and should refer to *United States and State of Texas* v. *Halliburton Energy Services, Inc., et al.,* D.J. Ref. 90–11–3–07730/1.

The Consent Decrees may be examined at the Office of the United States Attorney, Southern District of Texas, 919 Milam Street, Suite 1500, Houston, Texas 77002. The Consent Decree may also be examined at U.S. EPA Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas, 75202. During the public comment period, the Consent Decree, may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), 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 $10.00 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by email or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2010–21071 Filed 8–24–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under The Clean Air Act

Notice is hereby given that on August 12, 2010, a proposed Consent Decree in *United States* v. *RP Baking, LLC.* Civil Action No. 2:10–cv–04139–SDW–MCA, was filed with the United States District Court for the District of New Jersey. In this action, the United States sought penalties and injunctive relief for the Defendant's violations of the Clean Air Act, 42 U.S.C. 7413(b), and for violations of the federally enforceable New Jersey State Implementation Plan, at a facility in Harrison, Hudson County, New Jersey.

To resolve the United States' claims, the Defendant will pay a penalty of $210,000 to the United States and the State of New Jersey, and propose physical changes and/or upgrades to the oxidizer, a pollution control device, to come into compliance with the New Jersey State Implementation Plan's emission limits for volatile organic compounds. If the performance test performed after physical changes/upgrades demonstrates non-compliance, the Consent Decree requires the Defendant to pay an additional $50,000 civil penalty and to propose further upgrades/changes to the oxidizer or possibly request an alternate emission limit from both EPA and the NJDEP.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to

pubcomment-ees.enrd@usdoj.gov or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to either: *United States* v. *RP Baking, LLC,* Civil Action No. 2:10–cv–04139–SDW–MCA, or D.J. Ref. No. 90–5–2–1–09318/1. The Consent Decree may be examined at the Office of the United States Attorney, District of New Jersey, 970 Broad Street, Room 502, Newark, New Jersey 07102, and at the United States Environmental Protection Agency, 290 Broadway New York, New York 10007–1866. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check, payable to the U.S. Treasury, in the amount of $10.25 (25 cents per page reproduction cost), or, if by e-mail or fax, forward a check in the applicable amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2010–21036 Filed 8–24–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

The Department of Labor (DOL) hereby announces the submission of the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation; including, among other things, a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Linda Watts Thomas on 202–693–4223 (this is not a toll-free number) and e-mail mail to: *DOL_PRA_PUBLIC@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor—Employment and Training Administration, Room 10235, Washington, DC 20503, Telephone: 202–395–7316/Fax 202–395–5806 (these are not toll-free numbers), e-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register.** In order to ensure the appropriate consideration, comments should reference the applicable OMB Control Number (see below).

The OMB is particularly interested in comments which:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration.

Type of Review: Extension of a currently approved information collection.

Title of Collection: Quick Turnaround Surveys of the Workforce Investment Act.

OMB Control Number: 1205–0436.

Frequency: On occasion.

Affected Public: State and local workforce agencies and workforce investment boards, and WIA partner program agencies at the state and local levels.

Cost to Federal Government: $0.

Estimated Number of Respondents: From 54 to 250 respondents per survey, for up to 20 surveys.

Total Number of Responses: From 54 to 250 responses per survey, for up to 20 surveys.

Total Burden Hours: From 72 to 7,500 per survey.

Total Hour Burden Cost (Operating/Maintaining): $0.

Description: ETA, in its role of providing broad program oversight and policy development, needs accurate, timely information on how services and systems under WIA are unfolding and on the challenges and successes states and local areas encounter. Only in this way can it properly discharge its obligations to issue policy clarifications, regulations and technical assistance. This need is particularly acute given that the workforce development system has been evolving rapidly in the several years since WIA was enacted. It is expected that WIA will continue to change rapidly, as Congress is currently considering its reauthorization, with multiple potential changes. However, much of the information available to ETA on key operational issues is impressionistic or anecdotal in nature, based on hearsay or unsystematic observations, and not accurate as to the incidence or scope nationally. When accurate nationwide information is available, as from long-term in-depth evaluation studies, it is often not timely. Thus ETA has a need for accurate and timely information that can be found only with systematic quick turnaround studies. For additional information, see related notice published in the **Federal Register** on March 30, 2010, (Vol. 75 page 15726).

Dated: August 11, 2010.

Linda Watts Thomas,

Acting Departmental Clearance Officer.

[FR Doc. 2010–21077 Filed 8–24–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Proposals, Submissions, and Approvals

ACTION: Submission for OMB review; comment request.

The Department of Labor (DOL) hereby announces the submission of the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, including, among other things, a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Linda Watts Thomas on 202–693–4223

(this is not a toll-free number) and e-mail to: *DOL_PRA_PUBLIC@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor—Employment and Training Administration, Room 10235, Washington, DC 20503, Telephone: 202–395–7316/Fax 202–395–5806 (these are not toll-free numbers), e-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register.** In order to ensure the appropriate consideration, comments should reference the applicable OMB Control Number (*see below*).

The OMB is particularly interested in comments which:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Employment and Training Administration.

Type of Review: New.

Title of Collection: Evaluation of the Community-Based Job Training Grants.

OMB Control Number: 1205–0NEW.

Frequency: One time only.

Form Numbers: None; survey.

Affected Public: Grant Recipients.

Annual Cost to Federal Government: $166,666.

Estimated Number of Respondents: 251.

Total Number of Responses: 251.

Total Burden Hours: 251.

Total Hour Burden Cost (Operating/Maintaining): $0.

Description: This information collection request is for a study to evaluate grantees funded under ETA's initiative to implement technology based learning. The initiative increases worker access to training while stimulating the development of innovative models and uses for technology based learning in the public workforce system. For additional information, *see* related notice published in the **Federal Register** on May 6, 2010. (Vol. 75 page 24990).

Dated: August 11, 2010.

Linda Watts Thomas,

Acting Departmental Clearance Officer.

[FR Doc. 2010–21078 Filed 8–24–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

The Department of Labor (DOL) hereby announces the submission of the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation; including, among other things, a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Linda Watts Thomas on 202–693–4223 (this is not a toll-free number) and e-mail mail to: *DOL_PRA_PUBLIC@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor—Employment and Training Administration, Room 10235, Washington, DC 20503, Telephone: 202–395–7316/Fax 202–395–5806 (these are not toll-free numbers), e-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register.** In order to ensure the appropriate consideration, comments should reference the applicable OMB Control Number (see below).

The OMB is particularly interested in comments which:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Employment and Training Administration.

Type of Review: NEW.

Title of Collection: Evaluation of the Technology-Based Learning Grants.

OMB Control Number: 1205–0NEW.

Frequency: Once.

Form Numbers: None; survey.

Affected Public: Grantees.

Cost to Federal Government: $121,517.

Estimated Number of Respondents: 1050.

Total Number of Responses: 1050.

Total Burden Hours: 350.

Total Hour Burden Cost (Operating/Maintaining): $0.

Description: This information collection request is for a study to evaluate grantees funded under ETA's initiative to implement technology based learning. The initiative increases worker access to training while stimulating the development of innovative models and uses for technology based learning in the public workforce system. For additional information, see related notice published in the **Federal Register** on March 19, 2010, (Vol. 75 page 13305).

Dated: August 11, 2010.

Linda Watts Thomas,

Acting Departmental Clearance Officer.

[FR Doc. 2010–21079 Filed 8–24–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

The Department of Labor (DOL) hereby announces the submission of the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation; including, among other things, a description of the likely respondents, proposed frequency of response, and estimated total burden

may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Linda Watts Thomas on 202–693–4223 (this is not a toll-free number) and e-mail mail to: *DOL_PRA_PUBLIC@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor—Employment and Training Administration, Room 10235, Washington, DC 20503, Telephone: 202–395–7316/Fax 202–395–5806 (these are not toll-free numbers), e-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register.** In order to ensure the appropriate consideration, comments should reference the applicable OMB Control Number (see below).

The OMB is particularly interested in comments which:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration.

Type of Review: Extension without changes of a currently approved information collection.

Title of Collection: Attestation by Employers using Alien Crewmembers for Longshore Activities in U.S. Ports—Form ETA–9033.

OMB Control Number: 1205–0309.

Frequency: On occasion.

Form Numbers: ETA–9033.

Affected Public: Businesses or Other For-Profits.

Cost to Federal Government: $0.

Estimated Number of Respondents: 1.

Total Number of Responses: 1.

Total Burden Hours: 4.

Total Hour Burden Cost (Operating/Maintaining): $0.

Description: The information collection is required by section 258 of the Immigration and Nationality Act (INA) (8 U.S.C. 1288). The INA has a prevailing practice exception to the general prohibition on the performance of longshore work by alien crewmembers in U.S. ports. Under the prevailing practice exception, before any employer may use alien crewmembers to perform longshore activities in U.S. ports, it must submit an attestation to the Secretary of Labor containing the elements prescribed by the INA. The INA further requires that the Secretary of Labor make available for public examination in Washington, DC, a list of employers that have filed attestations and, for each of these employers, a copy of the employer's attestation and accompanying documentation received by the Secretary.

For additional information, see related notice published in the **Federal Register** on June 10, 2010, (75 FR 32971).

Dated: August 11, 2010.

Linda Watts Thomas,

Acting Departmental Clearance Officer.

[FR Doc. 2010–21080 Filed 8–24–10; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 10–093]

National Environmental Policy Act; NASA Glenn Research Center Plum Brook Station Wind Farm Project

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to prepare an Environmental Impact Statement and to conduct scoping for the NASA Glenn Research Center (GRC).

SUMMARY: NASA intends to conduct scoping and prepare an Environmental Impact Statement (EIS) for the NASA GRC Plum Brook Station Wind Farm Project located near Sandusky, Ohio, pursuant to the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321, *et seq.*), the CEQ Regulations for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1508), Executive Order 13423, "Strengthening Federal Environmental, Energy, and Transportation Management", and NASA policy and procedures (14 CFR part 1216 Subpart 1216.3). The purpose of scoping is for NASA to obtain public comments on construction and operation of the wind farm.

The purpose of constructing and operating the wind farm is for NASA to increase its use of renewable energy sources on the NASA-owned land at Plum Brook Station, which will enable NASA to meet the objectives of the Energy Policy Act of 2005.

Three alternatives will be examined in this EIS: Two siting alternatives and the no-action alternative. The two siting alternatives would involve different configurations for the wind farm on approximately 2,000 acres of underutilized land at Plum Brook Station.

Environmental impacts to be considered in the EIS are those impacts associated with construction and operation for up to 30 wind turbines.

DATES: Interested parties are invited to submit comments to on this proposed action, preferably in writing, no later than 60 days from the date of publication of this notice in the **Federal Register**.

ADDRESSES: Written comments on the scope of this EIS should be addressed to NASA Wind Farm EIS, P.O. Box 1490, Germantown, MD 20874–1490. While hard copy comments are preferred, comments may be sent via e-mail to *nasawindfarmeis@saic.com,* or by toll-free fax to 877–344–0517. NASA has also scheduled a public meeting to solicit comments and concerns from the public regarding this proposed action. The meeting will be held at 6:30 p.m. on September 14, 2010, at Sandusky High School, 2130 Hayes Avenue, Sandusky, OH, 44870. NASA will give equal weight to written, e-mail, fax, and oral comments.

FOR FURTHER INFORMATION CONTACT: Questions regarding the scoping process and requests to be placed on the distribution list for this EIS should be directed to Mr. John A. Selby, NASA Glenn Research Center, by any of the means given above, or by calling toll-free at 877–303–6530.

SUPPLEMENTARY INFORMATION: GRC is pursuing this because previous studies have concluded that wind energy at Plum Brook Station had the greatest potential of generating large amounts of renewable energy.

The Proposed Action is for GRC to enter into a 20 to 25 year strategic partnership with a Wind Energy Developer for the development and operation of a wind farm at Glenn's Plum Brook Station campus. The wind farm will have a maximum estimated capacity of 70 megawatts, consisting of 20 to 30 wind turbines each rated at approximately 2.5 megawatts. This equates to approximately 20 megawatts of average total power output based on a 30% wind capacity factor.

In addition, when fully operational, this project could potentially provide GRC's Plum Brook Station and Lewis Field with a renewable electrical supply which would assist NASA in meeting Executive Order 13423 (Strengthening Federal Environmental, Energy, and Transportation Management), requiring 7.5% of all electrical energy used agencywide to come from renewable energy sources by the year 2013. This 7.5% goal equates to approximately 14 megawatts. All of NASA's agency assets currently receive 6.5 megawatts of electrical power from renewables, thus leaving a shortfall of 7.5 megawatts in meeting the 2013 target. Because Executive Order 13423 provides for a double credit if the renewable energy is produced on federal property, Glenn can apply 3.8 megawatts of the wind farm output to completely meet the total agency requirement.

NASA has identified an approximately 2,000-acre tract along the east-central portion of the 6,400-acre Plum Brook Station for initial consideration for wind farm development. This area was determined based on consideration of the GRC Master Plan, ongoing and planned activities, known wildlife areas, and consideration of a potential future aircraft runway.

Currently under consideration are alternatives to the Proposed Action that will be discussed in this EIS. They include, but are not limited to, the no-action alternative, a wind farm design featuring full build-out of 20 to 30 wind turbines, and an alternative featuring an intermediate wind farm design based on Ohio Power Siting Board setbacks and other siting constraints.

The EIS will consider the potential impacts associated with construction and operation of the Wind Farm Project. Science Applications International Corporation of Germantown, Maryland, has been contracted to support NASA's preparation of this EIS and implementation of associated scoping activities.

Written public input and comments on environmental impacts associated with the proposed Wind Farm Project are hereby solicited. Written comments, statements, and or questions regarding the alternatives or environmental impacts should identify issues or suggest topics to be included in this EIS.

Olga M. Dominguez,

Assistant Administrator for Strategic Infrastructure.

[FR Doc. 2010–21052 Filed 8–24–10; 8:45 am]

BILLING CODE P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (10–094)]

NASA Advisory Council; Exploration Committee

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the Exploration Committee of the NASA Advisory Council.

DATES: Tuesday, September 21, 2010, 1 p.m.–6:30 p.m., Local Time.

ADDRESSES: NASA Headquarters, Glennan Conference Room (1Q39); 300 E Street, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Jane Parham, Exploration Systems Mission Directorate, National Aeronautics and Space Administration Headquarters, 300 E Street, SW., Washington, DC 20546, 202/358–1715; *jane.parham@nasa.gov.*

SUPPLEMENTARY INFORMATION: The agenda topics for the meeting will include:

- Human Research Program Risk Development Process.
- Exploration of Near Earth Objects (NEO) Objectives Workshop Results.
- Global Point of Departure—Exploration Architecture and Other Agency Partnerships.
- Status of Commercial Crew/Cargo Activity.

The meeting will be open to the public up to the seating capacity of the room. It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will need to show a valid government-issued picture identification such as driver's license or passport at the Visitor Center in the West Lobby, and must state they are attending the NASA Advisory Council Exploration Committee meeting in HQ Room 1Q39. Further, *no later than September 7, 2010,* all non-U.S. citizens must submit the following information to Ms. Jane Parham, Room 7C27, NASA Headquarters, 300 E Street, SW., Washington, DC 20546; Fax (202) 358–3406: Name, current address, citizenship, company affiliation (if applicable) to include address, telephone number, and their title, place of birth, date of birth, U.S. visa information to include type, number, and expiration date, U.S. Social Security Number (if applicable), Permanent Resident Alien card number and expiration date (if applicable), place and date of entry into the U.S., and passport information to include country of issue, number, and expiration date.

For questions, please call Jane Parham at (202) 358–1715.

Dated: August 19, 2010.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2010–21054 Filed 8–24–10; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–305; NRC–2010–0041]

Dominion Energy Kewaunee, Inc. Kewaunee Power Station; Notice of Availability of the Final Supplement 40 to the Generic Environmental Impact Statement for License Renewal of Nuclear Plants Regarding the License Renewal of Kewaunee Power Station

Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has published a final plant-specific supplement to the *Generic Environmental Impact Statement for License Renewal of Nuclear Plants* (GEIS), NUREG–1437, regarding the renewal of Operating License DPR–43 for an additional 20 years of operation for Kewaunee Power Station (KPS). The KPS site is located on the shore of Lake Michigan, approximately 27 miles east-southeast of Green Bay, WI. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources.

As discussed in Section 9.4 of the final supplement, the staff determined that the adverse environmental impacts of license renewal for KPS are not great enough to deny the option of license renewal for energy-planning decision makers. This recommendation is based on: (1) The analysis and findings in the GEIS; (2) information provided in the environmental report submitted by Dominion Energy Kewaunee, Inc.; (3) consultation with Federal, State, and local agencies; (4) the staff's own independent review; and (5) consideration of public comments received during scoping and on the draft Supplemental Environmental Impact Statement.

The final Supplement 40 to the GEIS is publicly available at the NRC Public Document Room (PDR), located at One White Flint North, Public File Area O–1F21, 11555 Rockville Pike, Rockville,

Maryland 20852, or from the NRC's Agencywide Documents Access and Management System (ADAMS). The ADAMS Public Electronic Reading Room is accessible at *http://www.nrc.gov/reading-rm/adams.html.* The accession number for the final Supplement 40 to the GEIS is ML102280229. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC's PDR reference staff by telephone at (800) 397–4209 or (301) 415–4737, or by e-mail at *pdr.resource@nrc.gov.* In addition, the Kewaunee Public Library, 822 Juneau Street, Kewaunee, Wisconsin 54216, has agreed to make the final supplement available for public inspection.

For Further Information Contact: Mr. Daniel Doyle, Projects Branch 1, Division of License Renewal, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Mail Stop O–11F1, Washington, DC 20555–0001. Mr. Doyle may be contacted by telephone at (800) 368–5642, extension 3748, or by e-mail at *daniel.doyle@nrc.gov.*

Dated at Rockville, Maryland, this 19th day of August 2010.

For the Nuclear Regulatory Commission.

Bo Pham,

Chief, Projects Branch 1 Division of License Renewal Office of Nuclear Reactor Regulation.

[FR Doc. 2010–21127 Filed 8–24–10; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This gives notice of OPM decisions granting authority to make appointments under Schedules A, B, and C in the excepted service as required by 5 CFR 213.103.

FOR FURTHER INFORMATION CONTACT: Roland Edwards, Senior Executive Resource Services, Employee Services, 202–606–2246.

SUPPLEMENTARY INFORMATION: Appearing in the listing below are the individual authorities established under Schedules A, B, and C between July 1, 2010, and July 31, 2010.

These notices are published monthly in the **Federal Register** at *http://www.gpoaccess.gov/fr/.* A consolidated listing of all authorities as of June 30 is also published each year. The following Schedules are *not* codified in the Code of Federal Regulations. These are agency-specific exceptions.

Schedule A

No Schedule A authorities to report during July 2010.

Schedule B

No Schedule B authorities to report during July 2010.

Schedule C

The following Schedule C appointments were approved during July 2010.

Office of National Drug Control Policy

QQGS10011 Senior Policy Analyst for State, Local and Tribal Affairs. Effective July 7, 2010.

QQGS10010 Policy Analyst for Intergovernmental Affairs. Effective July 15, 2010.

Department of State

DSGS70113 Staff Assistant for International Energy Affairs. Effective July 16, 2010.

DSGS70114 Legislative Management Officer for Legislative and Intergovernmental Affairs. Effective July 16, 2010.

DSGS70097 Senior Advisor for Western Hemispheric Affairs. Effective July 19, 2010.

Department of the Treasury

DYGS00532 Special Assistant for Financial Stability. Effective July 23, 2010.

DYGS00533 Special Assistant (Economic Policy). Effective July 23, 2010.

DYGS60421 Special Assistant for Legislative Affairs (Tax and Budget). Effective July 29, 2010.

Department of Defense

DDGS17292 Special Assistant for Defense (Personnel and Readiness). Effective July 29, 2010.

Department of the Air Force

DFGS60026 Special Assistant for the Air Force. Effective July 2, 2010.

Department of Justice

DJGS00612 Senior Counsel for Access to Justice. Effective July 22, 2010.

DJGS00614 Legislative Assistant to the Assistant Attorney General (Legislative Affairs). Effective July 28, 2010.

Department of Homeland Security

DMGS00371 Special Advisor to the Secretary. Effective July 19, 2010.

DMGS00444 Scheduling and Advance Assistant for Scheduling and Protocol Coordination. Effective July 19, 2010.

Department of the Interior

DIGS01193 Deputy Director, Office of Communications/Press Secretary. Effective July 8, 2010.

DIGS01196 Deputy Director, Office of Communications. Effective July 20, 2010.

DIGS01195 Counselor for Land and Minerals Management. Effective July 28, 2010.

Department of Agriculture

DAGS00222 Special Assistant for Rural Housing Service. Effective July 9, 2010.

DAGS00315 Special Assistant for Administration. Effective July 19, 2010.

DAGS00237 Confidential Assistant to the Deputy Secretary. Effective July 21, 2010.

Department of Commerce

DCGS00159 Deputy Director for Public Affairs. Effective July 1, 2010.

DCGS00645 Senior Advisor of Commerce for Industry and Security. Effective July 1, 2010.

DCGS60659 Deputy Director, Office of White House Liaison. Effective July 1, 2010.

DCGS00555 Public Affairs Specialist for the National Telecommunications and Information Administration. Effective July 7, 2010.

DCGS00220 Special Assistant to the Director, Executive Secretariat. Effective July 13, 2010.

DCGS60471 Confidential Assistant for the Chief of Staff. Effective July 15, 2010.

DCGS00687 Senior Policy Advisor, Office of Policy and Strategic Planning. Effective July 22, 2010.

DCGS60136 Special Assistant, National Export Initiative. Effective July 22, 2010.

DCGS00400 Deputy Press Secretary of Public Affairs. Effective July 23, 2010.

DCGS00317 Deputy Director of Scheduling and Advance. Effective July 27, 2010.

Department of Labor

DLGS60139 Special Assistant to the Chief of Staff. Effective July 2, 2010.

Department of Health and Human Services

DHGS60116 Speechwriter (Health Reform) for Public Affairs. Effective July 7, 2010.

DHGS60117 Special Assistant (Health Reform) for Public Affairs. Effective July 8, 2010.

DHGS60569 Confidential Assistant for Scheduling and Advance. Effective July 12, 2010.

Department of Education

DBGS00121 Special Assistant of Education. Effective July 2, 2010.

DBGS00224 Special Assistant for Planning, Evaluation, and Policy Development. Effective July 15, 2010.

DBGS00227 Confidential Assistant for Safe and Drug-Free Schools. Effective July 16, 2010.

DBGS00296 Special Assistant of the White House Initiative on Historically Black Colleges and Universities. Effective July 16, 2010.

DBGS00227 Confidential Assistant for Planning, Evaluation, and Policy Development. Effective July 20, 2010.

DBGS00292 Confidential Assistant of Education. Effective July 20, 2010.

DBGS00330 Confidential Assistant for Elementary and Secondary Education. Effective July 28, 2010.

DBGS00331 Special Assistant for Civil Rights. Effective July 28, 2010.

DBGS00346 Confidential Assistant for Elementary and Secondary Education. Effective July 28, 2010.

DBGS00354 Confidential Assistant to the General Counsel. Effective July 28, 2010.

Environmental Protection Agency

EPGS07023 Advance Specialist to the Deputy Chief of Staff (Operations). Effective July 7, 2010.

EPGS10008 Special Assistant to the Associate Administrator for Policy, Economics, and Innovation. Effective July 7, 2010.

Council on Environmental Quality

EQGS00017 Special Assistant (Green Jobs) to the Chairman (Council on Environmental Quality). Effective July 2, 2010.

EQGS00023 Special Assistant (Legislative Affairs) to the Chairman (Council on Environmental Quality). Effective July 2, 2010.

EQGS00122 Special Assistant (Land and Water Ecosystems) to the Chairman (Council on Environmental Quality). Effective July 23, 2010.

Department of Energy

DEGS00822 Senior Advisor to the Chief of Staff. Effective July 7, 2010.

DEGS00823 Deputy Assistant Secretary for Senate Affairs. Effective July 7, 2010.

DEGS00824 Special Assistant for the Office of Scheduling and Advance. Effective July 16, 2010.

Small Business Administration

SBGS00691 Director of Hubzone for Government Contracting and Business Development. Effective July 12, 2010.

General Services Administration

GSGS01439 Special Assistant to the Regional Administrator. Effective July 20, 2010.

GSGS01444 Press Secretary for Communications and Marketing. Effective July 27, 2010.

GSGS01445 Deputy Press Secretary for Communications and Marketing. Effective July 28, 2010.

Department of Housing and Urban Development

DUGS00050 Staff Assistant for the Office of Executive Scheduling and Operations. Effective July 22, 2010.

Department of Transportation

DTGS60380 Associate Administrator for Governmental, International, and Public Affairs. Effective July 16, 2010.

Administrative Conference of the United States

AAGS00001 Executive Assistant to the Chairman. Effective July 2, 2010.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.

John Berry,

Director, U.S. Office of Personnel Management.

[FR Doc. 2010–21069 Filed 8–24–10; 8:45 am]

BILLING CODE 6325–39–P

POSTAL SERVICE

Notice of Availability: Programmatic Environmental Assessment for Mobile Fueling Operations, Nationwide

AGENCY: Postal Service.

ACTION: Notice of availability of a Programmatic Environmental Assessment.

SUMMARY: To comply with the requirements of the National Environmental Policy Act (NEPA), the Postal Service has prepared and is making available a Programmatic Environmental Assessment (PEA) for the use of mobile fueling contractors to fuel postal vehicles on-site at selected Postal Service facilities located throughout the United States. This PEA evaluated the environmental impacts of the proposed action versus taking no action. Based on the results of the PEA, the Postal Service has issued a Finding of No Significant Impact (FONSI) indicating that the proposed action will not have a significant impact on the environment.

DATES: The PEA and FONSI are available as of August 25, 2010.

ADDRESSES: Interested parties may direct questions or requests for additional information, including requests for copies of the PEA and FONSI documents, to: Ms. Melinda Hulsey Edwards, Manager, Environmental Compliance and Risk Mitigation, Environmental Policy and Programs, U.S. Postal Service, 225 N. Humphreys Blvd, Memphis, TN 38166–0865; (901) 747–7424.

SUPPLEMENTARY INFORMATION: The Postal Service proposes to utilize mobile fueling contractors to fuel vehicles on-site at select postal facilities located throughout the United States. The program would focus on, but not be limited to city and rural delivery units with 30 or more routes using vehicles owned by the Postal Service. Based on these criteria, it is anticipated that up to 1,100 sites may be eligible to convert to mobile fueling.

Mobile fueling, also known as fleet fueling, wet fueling, or wet hosing, is the practice of filling fuel tanks of vehicles directly from tank trucks. In this scenario, mobile refueling contractors would drive tank trucks onto Postal Service property to fuel parked delivery vehicles and drive the tank trucks off the site when fueling is completed. The only alternative identified is the "no action" alternative of continuing to fuel delivery vehicles off-site at commercial gas stations.

Pursuant to the requirements of the National Environmental Policy Act (NEPA) of 1969, its implementing procedures at 39 CFR 775, and the President's Council on Environmental Quality Regulations (40 CFR parts 1500–1508), the Postal Service has prepared a Programmatic Environmental Assessment (PEA) to evaluate the environmental impacts of the proposed action versus the "no action" alternative. Based on the results of the PEA, the USPS has issued a Finding of No Significant Impact (FONSI) indicating that the proposed action will not have a significant impact on the environment. Mitigation requirements will include compliance with applicable regulatory programs, as well as Postal Service policy and contract requirements specific to each facility selected to participate in the mobile fueling program.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 2010–21149 Filed 8–24–10; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

International Product Change—United States Postal Service Inbound Market-Dominant Multi-Service Agreements With Foreign Postal Operators

AGENCY: Postal Service.™

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add Inbound Market-Dominant Multi-Service Agreements to the Market-Dominant Products List pursuant to 39 U.S.C. 3642.

DATES: August 25, 2010.

FOR FURTHER INFORMATION CONTACT: Margaret M. Falwell, 703–292–3576.

SUPPLEMENTARY INFORMATION: The United States Postal Service® gives notice of the filing of a request with the Postal Regulatory Commission to Add Market-Dominant Multi-Service Agreements with Foreign Postal Administrations to the Market Dominant Product List, and Notice of Filing (Under Seal) the Enabling Governors' Decision. Documents are available at *http://www.prc.gov,* Docket Nos. MC2010–35, R2010–5, and R2010–6.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. 2010–21148 Filed 8–24–10; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

International Product Change—United States Postal Service Inbound Competitive Multi-Service Agreements With Foreign Postal Operators

AGENCY: Postal Service.™

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add Inbound Competitive Multi-Service Agreements to the Competitive Products List pursuant to 39 U.S.C. 3642.

DATES: August 25, 2010.

FOR FURTHER INFORMATION CONTACT: Margaret M. Falwell, 703–292–3576.

SUPPLEMENTARY INFORMATION: The United States Postal Service® gives notice of the filing of a request with the Postal Regulatory Commission to Add Inbound Competitive Multi-Service Agreements to the Competitive Product List, and Notice of Filing (Under Seal) the Enabling Governors' Decision. Documents are available at *http://www.prc.gov,* Docket Nos. MC2010–34 and CP2010–95.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. 2010–21147 Filed 8–24–10; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Transfer of Commercial Standard Mail Parcels to Competitive Product List

AGENCY: Postal Service.™

ACTION: Notice.

SUMMARY: The Postal Service hereby provides notice that it has filed a request with the Postal Regulatory Commission to transfer commercial Standard Mail Parcels from the Mail Classification Schedule's Market Dominant Product List to its Competitive Product List.

DATES: August 25, 2010.

FOR FURTHER INFORMATION CONTACT: Nabeel Cheema, 202–268–7178.

SUPPLEMENTARY INFORMATION: On August 16, 2010, the United States Postal Service® filed with the Postal Regulatory Commission a *Request of the United States Postal Service* to transfer commercial Standard Mail Parcels from the Mail Classification Schedule's Market Dominant Product List to its Competitive Product List, pursuant to 39 U.S.C. 3642. Documents pertinent to this request are available at *http://www.prc.gov,* Docket No. MC2010–36.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. 2010–21146 Filed 8–24–10; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 12h–1(f), OMB Control No. 3235–0632, SEC File No. 270–570.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 12h–1(f) (17 CFR 240.12h–1(f)) provides an exemption from the registration requirements of the Securities Exchange Act of 1934 for compensatory employee stock options of issuers that are not required to file periodic reports under the Exchange Act and that have 500 or more option holders and more than $10 million in assets at its most recently ended fiscal year. The information required under Rule 12h–1(f) is not filed with the Commission. Rule 12h–1(f) permits issuers to provide the required information (other than the issuer's books and records) to the option holders and holders of share received on exercise of compensatory employee stock options either by: (i) Physical or electronic delivery of the information; or (ii) notice to the option holders and holders of shares received on exercise of compensatory employee stock options of the availability of the information on a password-protected Internet site and any password needed to access the information. We estimate that it takes approximately 2 burden hours per response to provide the information required under Rule 12h–1(f) and it is filed by approximately 40 respondents. We estimate that 25% of the 2 hours per response (5 hours) is prepared by the company for a total annual reporting burden of 80 hours (.5 hours per response × 40 responses).

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 regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to: *Shagufta_Ahmed@omb.eop.gov* and (ii) Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6423 General Green Way, Alexandria, Virginia 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: August 18, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–21032 Filed 8–24–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:
Rule 17a–3(a)(16); SEC File No. 270–452; OMB Control No. 3235–0508.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Sec. 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 17a–3(a)(16) (17 CFR Sec. 240.17a–3(a)(16)) under the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78q *et seq.*) identifies the records required to be made by broker-dealers that operate internal broker-dealer systems. Those records are to be used in monitoring compliance with the Commission's financial responsibility program and antifraud and antimanipulative rules, as well as other rules and regulations of the Commission and the self-regulatory organizations. It is estimated that approximately 105 active broker-dealer respondents registered with the Commission incur an average burden of 2,835 hours per year (105 respondents multiplied by 27 burden hours per respondent equals 2,835 total burden hours) to comply with this rule.[1]

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, Virginia 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted within 60 days of this notice.

Dated: August 17, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–21033 Filed 8–24–10; 8:45 am]

BILLING CODE 8010–01–P

[1] The average cost per hour is $258. Therefore the total cost of compliance for the respondents is $731,430.

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request; Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:
Regulation A; OMB Control No. 3235–0286; SEC File No. 270–110 (Forms 1–A and 2–A).

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Regulation A (17 CFR 230.251 through 230.263) provides an exemption from registration under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) for certain limited offerings of securities by issuers who do not otherwise file reports with the Commission. Form 1–A is an offering statement filed under Regulation A. Form 2–A is used to report sales and use of proceeds in Regulation A offerings. All information is provided to the public for review. The information required is filed on occasion and is mandatory. We estimate approximately 100 issuers file Forms 1–A and 2–A annually. We estimate that Form 1–A takes approximately 608 hours to prepare, Form 2–A takes approximately 12 hours to prepare, and Regulation A takes one administrative hour to review for a total of 621 hours per response. We estimate that 75% of 621 hours per response (465.75 hours) is prepared by the company for a total annual burden of 46,575 hours (465.75 × 100 responses).

An agency may 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 regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Charles Boucher, Director/CIO Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: August 18, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–21034 Filed 8–24–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–2013.

Revision:
Rule 602; SEC File No. 270–404; OMB Control No. 3235–0461.

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 existing collection of information provided for in Rule 602 of Regulation NMS (17 CFR 240.602), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget for revision and approval.

Rule 602 of Regulation NMS, Dissemination of Quotations in NMS securities, contains two related collections. The first collection of information is found in Rule 602(a).[1] This reporting requirement obligates each national securities exchange and

[1] 17 CFR 242.602(a).

national securities association to make available to quotation vendors for dissemination to the public the best bid, best offer, and aggregate quotation size for each "subject security," as defined under the Rule. The second collection of information is found in Rule 602(b).[2] This reporting requirement obligates exchange members and over-the-counter ("OTC") market makers that are a "responsible broker or dealer," as defined under the Rule, to communicate to an exchange or association their best bids, best offers, and quotation sizes for subject securities.[3]

It is anticipated that 15 respondents, consisting of 14 national securities exchanges and one national securities association, will collectively respond approximately 741,127,661,148 times per year pursuant to Rule 602(a) at 18.22 microseconds per response, resulting in an annual aggregate burden of approximately 3,750 hours.

It is anticipated that approximately 130 respondents, consisting of OTC market makers, will collectively respond approximately 24,440,000 times per year pursuant to Rule 602(b) at 3 seconds per response, resulting in an annual aggregate burden of approximately 20,367 hours.

Written comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (b) the accuracy of the Commission's estimate of the burden of the proposed collections 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 collections of information on those who are to respond, 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/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: August 18, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–21035 Filed 8–24–10; 8:45 am]

BILLING CODE 8010–01–P

[2] 17 CFR 242.602(b).

[3] Under Rule 602(b)(5), electronic communications networks ("ECNs") have the option of reporting to an exchange or association for public dissemination, on behalf of customers that are OTC market makers or exchange market makers, the best-priced orders and the full size for such orders entered by market makers on the ECN, to satisfy such market makers' reporting obligation under Rule 602(b). Since this reporting requirement is an alternative method of meeting the market makers' reporting obligation, and because it is directed to nine or fewer persons (ECNs), this collection of information is not subject to OMB review under the Paperwork Reduction Act ("PRA").

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62739; File No. SR–FINRA–2010–044]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change Relating to the Expansion of the Order Audit Trail System to All NMS Stocks

August 18, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 6, 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. 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 is proposing to amend the Order Audit Trail System ("OATS") rules to extend the recording and reporting requirements to all NMS stocks, as that term is defined in Rule 600(b)(47) of Regulation NMS,[3] and to exclude certain firms that became FINRA members pursuant to NASD IM–1013–1 or NASD IM–1013–2 and the rules of the NYSE and that have limited trading activities.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA, at the Commission's Web site at *http://www.sec.gov,* and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 242.600(b)(47).

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

FINRA Rules 7410 through 7470 (the "OATS Rules") impose obligations on FINRA members to record in electronic form and report to FINRA on a daily basis certain information with respect to orders originated, received, transmitted, modified, canceled, or executed by members relating to OTC equity securities and equity securities listed and traded on The Nasdaq Stock Market, Inc. ("Nasdaq").[4] OATS captures this order information and integrates it with quote and transaction information to create a time-sequenced record of orders, quotes, and transactions. This information is then used by FINRA staff to conduct surveillance and investigations of member firms for violations of FINRA rules and Federal securities laws.

To enhance the effectiveness of OATS as a regulatory tool, FINRA is proposing to amend the OATS Rules to extend the recording and reporting requirements to all NMS stocks, as that term is defined in Rule 600(b)(47) of Regulation NMS.[5] The proposed rule change would thus effectively extend the OATS recording and reporting requirements to NMS stocks listed on markets other than

[4] As amended by SR–FINRA–2010–003, FINRA Rule 7410 defines an "OTC equity security" for purposes of the OATS Rules as an equity security that is not an NMS stock, except that the term does not include restricted equity securities and direct participation programs, as those terms are defined in FINRA Rule 6420. *See* Securities Exchange Act Release No. 61979 (April 23, 2010), 75 FR 23316 (May 3, 2010) (Order Approving File No. SR–FINRA–2010–003).

[5] Rule 600(b)(47) of Regulation NMS defines "NMS stock" as "any NMS security other than an option." 17 CFR 242.600(b)(47). An "NMS security" is defined as "any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in listed options." 17 CFR 242.600(b)(46).

Nasdaq (*e.g.,* NYSE, NYSE Amex, and NYSE Arca). By including order information for both OTC equity securities and all NMS stocks in OATS, FINRA would receive a substantial portion of order information for all U.S. equity securities, which would significantly enhance the scope of the order audit trail in the U.S. equity markets. In connection with the expansion of the OATS requirements, FINRA is also proposing to create an exclusion from the definition of "Reporting Member" in FINRA Rule 7410 to exclude certain firms that became FINRA members pursuant to NASD IM–1013–1 or NASD IM–1013–2 and the rules of the NYSE and that have limited trading activities.

Although FINRA members generally are required to report trades to FINRA for all over-the-counter transactions in all NMS stocks [6] (in addition to OTC equity securities [7]), the OATS Rules do not currently require members to report order information to FINRA for NMS stocks listed on markets other than Nasdaq. As a result, FINRA is unable to recreate, on an automated basis, a complete order and transaction audit trail for all over-the-counter transactions in NMS stocks. Expansion of the OATS requirements to include all NMS stocks would enhance FINRA's ability to review and examine for member compliance with certain trading rules, including, but not limited to, NASD Rule 2320 (Best Execution and Interpositioning) and NASD IM–2110–2 (Limit Order Protection) [sic].

By capturing OATS information for all NMS stocks, FINRA will also be able to expand its existing surveillance patterns to conduct more comprehensive cross-market surveillance, which also is in furtherance of NYSE's recent outsourcing of surveillance and other regulatory functions to FINRA.[8] Specifically, to have comprehensive surveillance patterns that monitor trading in Nasdaq and NYSE-listed securities across all markets in a consistent manner, it is necessary for FINRA to have the same complement of order, trade, and quote information for these securities. Without OATS information for NYSE-listed securities, FINRA has a less robust data set upon which to monitor activity in NYSE-listed securities and would be forced to continue to have multiple patterns, some less optimal, to surveil for the same activity.

FINRA notes that the Commission has recently published a proposed rule that, if adopted, would ultimately result in a consolidated audit trail for the U.S. securities markets.[9] FINRA believes that the proposed rule change is necessary notwithstanding the Commission's rule proposal concerning a consolidated audit trail. The consolidated audit trail, as proposed by the Commission, is still in its proposal stage and may be several years away from providing a means by which self-regulatory organizations and the Commission can use the data to surveil the equity markets.[10] In the interim, FINRA believes that extending the OATS recording and reporting requirements to NMS stocks listed on markets other than Nasdaq will greatly enhance its audit trail and its ability to identify illicit trading activity in a more effective and efficient manner.

Moreover, because Reporting Members [11] already are reporting order information to OATS regarding Nasdaq and OTC equity securities, they should have the technological framework in place to report information regarding orders in the remaining NMS stocks as well. In addition, those FINRA members that are also member organizations of the NYSE already are recording order information under the NYSE's Order Tracking System ("OTS") rules that are substantially similar to the information required by the OATS Rules.[12] FINRA believes that extending the OATS Rules to NMS stocks listed on markets other than Nasdaq can be accomplished in a comparatively short timeframe and can provide FINRA with order data for these securities much sooner than the consolidated audit trail proposed by the Commission.

Expanding the categories of securities to which the OATS Rules apply to include securities listed on the NYSE or other national securities exchanges, such as those listed on NYSE Amex, would have the ancillary effect of extending the OATS recording and reporting requirements to certain members that became members of FINRA pursuant to NASD IM–1013–1 or IM–1013–2 [13] and the rules of the NYSE.[14] These members generally conduct their trading activities on the floor of an exchange, which is overseen by the relevant exchange. FINRA believes it is appropriate to exclude these firms from the OATS recording and reporting requirements. Consequently, FINRA is proposing to amend the definition of "Reporting Member" in FINRA Rule 7410 so that a member will not be considered a "Reporting Member" with respect to an order if: (i) The firm was approved as a FINRA member pursuant to NASD IM–1013–1 or NASD IM–1013–2; (ii) the firm operates consistent with NASD IM–1013–1 or NASD IM–1013–2, including limiting its business operations to "permitted floor activities," as that term is defined in NASD IM–1013–1 and NASD IM–1013–2; and (iii) the order was received by the firm through systems operated and regulated by the NYSE or NYSE Amex.

FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval. The effective date will be no later than 180 days following publication of the *Regulatory Notice* announcing Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[15] 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. The proposed rule change is consistent with the Act because it will enhance FINRA's ability to conduct surveillance and investigations of member firms for violations of FINRA's rules and Federal securities laws.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any

[6] FINRA Rule 6110.

[7] *See* FINRA Rule 6400 Series.

[8] *See* "FINRA and NYSE Euronext Complete Agreement for FINRA to Perform NYSE Regulation's Market Oversight Functions," FINRA News Release (June 14, 2010), available at *http://www.finra.org/Newsroom/NewsReleases/2010/P121622*. However, certain gaps will continue to exist (*e.g.,* information relating to orders from non-FINRA member broker-dealers).

[9] *See* Securities Exchange Act Release No. 62174 (May 26, 2010), 75 FR 32556 (June 8, 2010).

[10] The Commission has proposed that national securities exchanges and national securities associations would begin submitting data to the central repository required by the proposed rule within one year after effectiveness of the NMS plan and that members would begin submitting data one year later. *See supra* note 9.

[11] *See* FINRA Rule 7410(o).

[12] *See* NYSE Rules 132B, 132C.

[13] NASD IM–1013–1 and NASD IM–1013–2 establish a waive-in membership application process for certain firms to become FINRA members that were members of the NYSE or NYSE Alternext (n/k/a NYSE Amex) but were not members of the National Association of Securities Dealers, Inc. *See* Securities Exchange Act Release No. 58707 (October 1, 2008), 73 FR 59001 (October 8, 2008); Securities Exchange Act Release No. 56653 (October 12, 2007), 72 FR 59127 (October 18, 2007).

[14] *See* NYSE Rule 2.

[15] 15 U.S.C. 78*o*–3(b)(6).

burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The proposed rule change was published for comment in *Notice to Members* 04–80 (November 2004).[16] Eight comments were received in response to the *Notice.*[17] A copy of the *Notice* is attached as Exhibit 2a. Copies of the comment letters received in response to the *Notice* are attached as Exhibit 2b.[18] Seven commenters were generally opposed to the proposed rule change. One commenter generally supported the proposal provided firms could report all equity securities in the same format and there were no redundant reporting responsibilities.[19]

One commenter opposed the proposed rule change without additional discussion but noted that the system in place for OATS at the time was inefficient in several ways.[20] Two other commenters opposed the OATS rules generally, without specifically commenting on any of the proposals.[21] These commenters cited the additional costs and burdens to member firms of complying with the OATS requirements.

The predominant concern among the commenters with respect to the proposal to extend the OATS Rules to securities traded on markets other than Nasdaq regarded the potential regulatory duplication that could occur by expanding OATS to include NYSE-listed equity securities[22] because NYSE maintains its own rules regarding the retention and reporting of order information in its OTS Rules.[23] As noted above, FINRA now has regulatory responsibility for performing the market surveillance and enforcement functions previously conducted by NYSE Regulation. It is FINRA's understanding that NYSE will propose to retire OTS upon the expansion of OATS to all NMS stocks.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 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 or disapprove 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–FINRA–2010–044 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–FINRA–2010–044. 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 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 No. SR–FINRA–2010–044 and should be submitted on or before September 15, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Florence E. Harmon,

Deputy Secretary.

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[16] Three other proposals were discussed in the *Notice.* The first involved expanding the OATS requirements to OTC equity securities. The second would require enhanced information, including execution data, relating to orders routed to non-members or exchanges. The third would require members to record and report to OATS proprietary orders generated in the ordinary course of market making activities. The proposal regarding OTC equity securities was approved by the SEC in 2006 and became effective on February 4, 2008. *See* Securities Exchange Act Release No. 54585 (October 10, 2006), 71 FR 61112 (October 17, 2006); *see also* Securities Exchange Act Release No. 55440 (March 9, 2007), 72 FR 12852 (March 19, 2007); *Notice to Members* 06–70 (December 2006). As part of that proposed rule change, FINRA discussed the comments related to the expansion of OATS to OTC equity securities. *See* SR–NASD–2005–101. Neither of the other two proposals is part of the current proposed rule change. Accordingly, FINRA is not addressing the comments received in response to those proposals.

[17] Letter from Emily Vitale dated November 24, 2004 ("Vitale"); Letter from ML Stern & Co., LLC dated January 14, 2005 ("ML Stern"); Letter from Ameritrade, Inc. dated January 18, 2005 ("Ameritrade"); Letter from Instinet Group dated January 20, 2005 ("Instinet"); Letter from Operations Committee of the Securities Industry Association dated January 20, 2005 ("SIA"); Letter from royalblue Financial Corp. dated January 20, 2005 ("royalblue"); Letter from Jed Bandes dated January 20, 2005 ("Bandes"); and Letter from The Financial Information Forum dated January 21, 2005 ("FIF").

[18] The Commission notes that Exhibits 2a and 2b are attached to the filing itself and not to this notice.

[19] *See* Ameritrade.

[20] *See* ML Stern.

[21] *See* Bandes, Vitale.

[22] *See* Ameritrade, FIF, Instinet, SIA, royalblue.

[23] *See* NYSE Rules 132B, 132C.

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62730; File Nos. SR–BATS–2010–016; SR–BX–2010–040; SR–CBOE–2010–056; SR–CHX–2010–13; SR–EDGA–2010–03; SR–EDGX–2010–03; SR–ISE–2010–62; SR–NASDAQ–2010–076; SR–NSX–2010–07; SR–NYSE–2010–47; SR–NYSEAmex–2010–60; SR–NYSEArca–2010–58]

Self-Regulatory Organizations; BATS Exchange, Inc.; NASDAQ OMX BX, Inc.; Chicago Board Options Exchange, Incorporated; Chicago Stock Exchange, Inc.; EDGA Exchange, Inc.; EDGX Exchange, Inc.; International Securities Exchange LLC; The NASDAQ Stock Market LLC; National Stock Exchange, Inc.; New York Stock Exchange LLC; NYSE Amex LLC; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Changes Relating to Clearly Erroneous Transactions

August 16, 2010.

On June 17, 2010, each of BATS Exchange, Inc. ("BATS"), NASDAQ OMX BX, Inc. ("BX"), Chicago Board Options Exchange, Incorporated ("CBOE"), Chicago Stock Exchange, Inc. ("CHX"), EDGA Exchange, Inc. ("EDGA"), EDGX Exchange, Inc. ("EDGX"), International Securities Exchange LLC ("ISE"), The NASDAQ Stock Market LLC ("Nasdaq"), National Stock Exchange, Inc. ("NSX"), New York Stock Exchange LLC ("NYSE"), NYSE Amex LLC ("NYSE Amex"), and NYSE Arca, Inc. ("NYSE Arca") (collectively, the "Exchanges") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 ("Act"),[2] and Rule 19b–4 thereunder,[3] proposed rule changes to amend certain of their respective rules to set forth clearer standards and curtail their discretion with respect to breaking erroneous trades.

Section 19(b)(2) of the Act [4] provides that within thirty-five days of the publication of notice of the filing of a proposed rule change, or within such longer period as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, the Commission shall either approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved. The 35th day for the filings submitted by BATS, BX, CBOE, CHX, EDGA, EDGX, ISE, Nasdaq, NSX, NYSE, and NYSE Amex was August 2, 2010.[5] The 35th day for the filing submitted by NYSE Arca was August 3, 2010.[6] The Commission had received an extension of time from the Exchanges until August 16, 2010.[7]

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule changes so that it has sufficient time to consider these proposed rule changes, relating to the amendment of clearly erroneous execution rules to provide greater transparency and certainty to the process of breaking trades, and the comment letters that have been submitted in connection with these filings.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[8] designates August 30, 2010, as the date by which the Commission should either approve or institute proceedings to determine whether to disapprove the proposed rule changes.

By the Commission.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–21095 Filed 8–24–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62742, File No. SR–MSRB–2010–05]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change Relating to the Continuing Disclosure Service of the MSRB Electronic Municipal Market Access (EMMA) System

August 19, 2010.

On June 30, 2010, the Municipal Securities Rulemaking Board ("MSRB"), filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to the continuing disclosure service of the MSRB Electronic Municipal Market Access (EMMA) System. The proposed rule change was published for comment in the **Federal Register** on July 19, 2010.[3] The Commission received one comment letter.[4] This order approves the proposed rule change.

Currently Exchange Act Rule 15c2–12 provides that an underwriter for a primary offering of municipal securities subject to Exchange Act Rule 15c2–12 is prohibited from underwriting the offering unless the underwriter has determined that the issuer or an obligated person for whom financial information or operating data is presented in the final official statement has undertaken in writing to provide certain items of information to the MSRB. Such items include: (A) Annual financial information; (B) audited financial statements if available and if not included in the annual financial information; (C) notices of certain events ("Rule 15c2–12 Event Notices"); [5] and (D) notices of failures to provide annual financial information on or before the date specified in the written undertaking. Written undertakings are to provide that all continuing disclosure documents submitted to the MSRB shall be accompanied by identifying information as prescribed by the MSRB. Such submissions are made by issuers, obligated persons and their agents to the MSRB through the EMMA continuing disclosure service and are made available to the public through the EMMA Web site for free and through paid subscriptions.

The Commission has recently amended Exchange Act Rule 15c2–12 to modify several provisions relating to the

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release Nos. 62330 (June 21, 2010), 75 FR 36725 (June 28, 2010); 62331 (June 21, 2010), 75 FR 36746 (June 28, 2010); 62332 (June 21, 2010), 75 FR 36749 (June 28, 2010); 62333 (June 21, 2010), 75 FR 36759 (June 28, 2010); 62334 (June 21, 2010), 75 FR 36732 (June 28, 2010); 62336 (June 21, 2010), 75 FR 36743 (June 28, 2010); 62337 (June 21, 2010), 75 FR 36739 (June 28, 2010); 62338 (June 21, 2010), 75 FR 36762 (June 28, 2010); 62339 (June 21, 2010), 75 FR 36765 (June 28, 2010); 62340 (June 21, 2010), 75 FR 36768 (June 28, 2010); and 62342 (June 21, 2010), 75 FR 36752 (June 28, 2010).

[6] *See* Securities Exchange Act Release No. 62335 (June 21, 2010), 75 FR 37494 (June 29, 2010).

[7] The Exchanges submitted through the Commission's Electronic Form 19b–4 Filing System extensions of the time period for Commission action through August 16, 2010.

[8] 15 U.S.C. 78s(b)(2).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 62489 (July 13, 2010), 75 FR 41909 (July 19, 2010) ("Commission's Notice").

[4] *See* letter from Steve Apfelbacher, President, National Association of Independent Public Finance Advisors ("NAIPFA"), dated August 9, 2010.

[5] Under Exchange Act Rule 15c2–12(b)(5)(i)(C), notices of the following events currently are required to be submitted to the MSRB, if material: principal and interest payment delinquencies; non-payment related defaults; unscheduled draws on debt service reserves reflecting financial difficulties; unscheduled draws on credit enhancements reflecting financial difficulties; substitution of credit or liquidity providers, or their failure to perform; adverse tax opinions or events affecting the tax-exempt status of the security; modifications to rights of security holders; bond calls; defeasances; release, substitution, or sale of property securing repayment of the securities; and rating changes.

submission of continuing disclosures to the MSRB (the "Rule 15c2–12 Amendment").[6] The Rule 15c2–12 Amendment, among other things, (1) Removes the exemption from the continuing disclosure provisions of Exchange Act Rule 15c2–12 for demand securities;[7] (2) modifies Exchange Act Rule 15c2–12 to establish a timeliness standard for submission of Rule 15c2–12 Event Notices of ten business days after the occurrence of the event; (3) deletes the general materiality condition for certain of the Rule 15c2–12 Event Notices; (4) modifies the language of the Rule 15c2–12 Event Notice regarding adverse tax events;[8] and (5) adds new Rule 15c2–12 Event Notices.[9]

To permit issuers and obligated persons to meet the provisions of the Rule 15c2–12 Amendment on or prior to the compliance date of December 1, 2010 established under the Rule 15c2–12 Amendment, this proposed rule change would modify the language of the EMMA continuing disclosure service to reflect the materiality standard changes under the Rule 15c2–12 Amendment and would modify the list of voluntary event-based disclosures that may be submitted to the EMMA continuing disclosure service to reflect changes in the list of Rule 15c2–12 Event Notices made by the Rule 15c2–12 Amendment.[10]

[6] *See* Release No. 34–62184A; File No. S7–15–09 (May 26, 2010).

[7] Currently primary offerings for demand securities as described in Exchange Act Rule 15c2–12(d)(1)(iii) are exempt from the requirements of Exchange Act Rule 15c2–12.

[8] The Rule 15c2–12 Amendment expands the current language of such Rule 15c2–12 Event Notice category to include adverse tax opinions, the issuance by the IRS of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701–TEB) or other material notices or determinations with respect to the tax status of the security or other material events affecting the tax status of the security.

[9] The Rule 15c2–12 Amendment includes the following new Rule 15c2–12 Event Notices: Tender offers; bankruptcy, insolvency, receivership, or similar event of the issuer or obligated person; the consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and the appointment of a successor or additional trustee, or the change of name of a trustee, if material.

[10] The existing language of the EMMA continuing disclosure service would incorporate the changed list of Rule 15c2–12 Event Notices made by the Rule 15c2–12 Amendment by reference to the then-current provisions of Exchange Act Rule 15c2–12 and therefore no change in the language of the EMMA continuing disclosure service would be made. In addition, the removal of the exemption for demand securities from the continuing disclosure provisions of Exchange Act Rule 15c2–12 does not require changes to the EMMA continuing disclosure service in order to permit submission of disclosures in connection with demand securities.

The MSRB has requested an effective date for the proposed rule change of a date to be announced by the MSRB in a notice published on the MSRB Web site, which date shall be no later than December 1, 2010 and shall be announced no later than five (5) business days prior to the effective date. A full description of the proposal is contained in the Commission's Notice.

The Commission received one comment letter supporting the proposal.[11] NAIPFA does not believe the proposed rule change to allow the MSRB to modify EMMA to accommodate the Rule 15c2–12 Amendment will impose any undue burden on issuers. In addition, NAIPFA agrees that the proposed changes are consistent with the Exchange Act and will effectuate the Commission's recent Rule 15c2–12 Amendment.

The Commission has carefully considered the proposed rule change and finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to the MSRB[12] and, in particular, the requirements of Section 15B(b)(2)(C) of the Exchange Act[13] and the rules and regulations thereunder. Section 15B(b)(2)(C) of the Exchange Act requires, among other things, that the MSRB's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.[14] In particular, the Commission finds that the proposed rule change is consistent with the Exchange Act because it effectuates the Commission's Rule 15c2–12 Amendment under the Exchange Act. In addition, the proposed rule change serves to remove impediments to and help perfect the mechanisms of a free and open market in municipal securities and would serve to promote the statutory mandate of the MSRB to protect investors and the public interest. The proposed rule change would aid in providing additional information for making investment decisions more easily accessible to all participants in the municipal securities market on an equal basis throughout the life of the securities without barriers to obtaining such information. Broad access to additional continuing disclosure documents through the continuing disclosure service of EMMA should assist in preventing fraudulent and manipulative acts and practices by improving the opportunity for public investors to access material information about issuers and their securities.

The proposed rule change will become effective on the date requested by the MSRB.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[15] that the proposed rule change (SR–MSRB–2010–05), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–21082 Filed 8–24–10; 8:45 am]

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[11] *See supra* note 4.

[12] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78o–4(b)(2)(C).

[14] *Id.*

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62729; File No. SR–FINRA–2010–032]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change Relating to Clearly Erroneous Transactions

August 16, 2010.

On June 17, 2010, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 ("Act"),[2] and Rule 19b–4 thereunder,[3] a proposed rule change to amend its rules to set forth clearer standards and curtail its discretion with respect to breaking erroneous trades.

Section 19(b)(2) of the Act[4] provides that within thirty-five days of the publication of notice of the filing of a proposed rule change, or within such

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(2).

longer period as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, the Commission shall either approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved. The 35th day for this filing was August 2, 2010.[5] The Commission had received an extension of time from FINRA until August 16, 2010.[6]

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change, relating to the amendment of clearly erroneous execution rules to provide greater transparency and certainty to the process of breaking trades, and the comment letters that have been submitted in connection with the filing.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[7] designates August 30, 2010, as the date by which the Commission should either approve or institute proceedings to determine whether to disapprove the proposed rule change.

By the Commission.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–21094 Filed 8–24–10; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF STATE

[Public Notice 7129]

Culturally Significant Objects Imported for Exhibition Determinations: "Paintings From the Reign of Victoria: The Royal Holloway Collection, London"; Correction

AGENCY: Department of State.

ACTION: Notice; correction.

SUMMARY: The Department of State published a document in the **Federal Register** of August 26, 2008, concerning culturally significant objects imported for exhibition determinations. The document did not state that the exhibition, "Paintings from the Reign of Victoria: The Royal Holloway Collection, London" would leave the United States after the last exhibit listed and then return for further exhibits.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (*telephone:* 202/632–6473). The address is U.S. Department of State, SA–5, L/PD, Fifth Floor, Washington, DC 20522–0505.

Correction

In the **Federal Register** of August 26, 2008, in FR volume 73, page 50395, at the end of the determinations, should be added the following: I further determine that the return to the United States of this exhibition of culturally significant objects for display at the Chrysler Museum of Art, Norfolk, VA, from on or about September 25, 2010, until on or about January 3, 2011, and at an additional venue yet to be determined from on or about January 22, 2011, until on or about May 2, 2011, is in the public interest.

Dated: August 17, 2010.

Ann Stock,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. C1–2010–21179 Filed 8–24–10; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 7128]

Bureau of Political-Military Affairs; Lifting of Policy of Denial Regarding ITAR Regulated Activities of Xe Services LLC, Formerly EP Investments, LLC (a/k/a Blackwater)

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State is lifting the policy of denial regarding Xe Services LLC, formerly EP Investments, LLC (a/k/a Blackwater) imposed on December 18, 2008 (73 FR 77099) pursuant to section 38 of the Arms Export Control Act (AECA) (22 U.S.C. 2778) and section 126.7 of the International Traffic in Arms Regulations (ITAR).

DATES: *Effective Date:* August 17, 2010.

FOR FURTHER INFORMATION CONTACT: Lisa V. Studtmann, Director, Office of Defense Trade Controls Compliance, Bureau of Political-Military Affairs, Department of State, (202) 663–2980.

SUPPLEMENTARY INFORMATION: Section 126.7 of the ITAR provides that any application for an export license or other approval under the ITAR may be disapproved, and any license or other approval or exemption granted may be revoked, suspended, or amended without prior notice whenever, among other things, the Department of State believes that 22 U.S.C. 2778, any regulation contained in the ITAR, or the terms of any U.S. Government export authorization (including the terms of a manufacturing license or technical assistance agreement, or export authorization granted pursuant to the Export Administration Act, as amended) has been violated by any party to the export or other person having a significant interest in the transaction; or whenever the Department of State deems such action to be in furtherance of world peace, the national security or the foreign policy of the United States, or is otherwise advisable.

On December 2, 2008, the Department of State placed EP Investments, LLC, now Xe Services LLC (a/k/a Blackwater) (hereafter referred to as Xe), including its subsidiaries or associated companies, under a policy of denial to ensure that Xe is both capable of and willing to comply with the AECA and ITAR.

The Department of State has determined that Xe has taken appropriate steps to address the causes of its ITAR violations, identify compliance problems, and resolve alleged violations. Xe replaced senior management; established, in October 2008, an independent Export Compliance Committee to oversee its remedial compliance efforts; improved ITAR compliance procedures; conducted various ITAR training; and conducted a targeted ITAR audit to confirm the effectiveness of its compliance measures. Xe entered into a civil settlement with the Department to resolve outstanding violations, institute external compliance oversight, and continue and improve compliance measures.

Therefore, the Department rescinds its denial policy against Xe and its subsidiaries and associated companies, effective August 17, 2010.

Dated: August 18, 2010.

Andrew J. Shapiro,

Assistant Secretary, Bureau of Political-Military Affairs, Department of State.

[FR Doc. 2010–21174 Filed 8–24–10; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Actions on Special Permit Applications

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

[5] *See* Securities Exchange Act Release No. 62341 (June 21, 2010), 75 FR 36756 (June 28, 2010).

[6] FINRA submitted through the Commission's Electronic Form 19b–4 Filing System an extension of time period for Commission action through August 16, 2010.

[7] 15 U.S.C. 78s(b)(2).

ACTION: Notice of actions on special permit applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the actions on special permits applications in (January to June 2010). The mode of transportation involved are identified by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Special Permits. It should be noted that some of the sections cited were those in effect at the time certain special permits were issued.

Issued in Washington, DC, on August 18, 2010.

Donald Burger,

Chief, Special Permits and Approvals Branch.

S.P. No.	Applicant	Regulation(s)	Nature of special permit thereof
		MODIFICATION SPECIAL PERMIT GRANTED	
14282–M	T.F. Boyle Transportation, Inc. (Boyle Transportation) Billerica, MA.	49 CFR 173 .835(g)	To modify the special permit to authorize an additional four Class 1 hazardous materials.
13057–M	MINTEQ International Inc. Canaan, CT.	49 CFR 172 Subparts D, E and F; 173.24(c) Subparts E and F of Part 173.	To modify the special permit by the deleting of three hazardous materials from paragraph 6; change the length of continuous rollor coil from 10,000 meters to 12,500 meters; and authorize 12,500 meters; and authorize steel pallets in addition to wooden pallets in paragraph 7.a.(5).
9880–M	G.E. Reuter-Stokes, Inc., Twinsburg, OH.	49 CFR 173.302; 175.3; Part 172 Subpart E and F.	To modify the special permit to authorize one drop test instead of 5 drop tests every 24 months and in section 8.e. add "e.e. radiation sensor" after "Each packaging manufactured".
11911–M	Transfer Flow, Inc., Chico, CA	49 CFR 178.700 thru 178.8 19	To modify the special permit to authorize new part numbers for tank drawings; to add several new refueling systems; to add two new fuel caps; and to add several new fuel tanks to the special permit.
14656–M	PurePak Technology Corporation, Chandler, AZ.	49 CFR 173.158 (f)(3)	To modify the special permit to authorize the use of a 38 mm closure in addition to the currently authorized 45 mm tamper evident closure.
14772–M	GE Hitachi Nuclear, Energy Americas, LLC, Sunsol, CA.	49 CFR 173.416	To modify the special permit to authorize an increase of the total number of authorized shipments from eight (8) to twenty (20) shipments.
14372–M	Garrett Aviation Services LLC dba Standard Aero, Augusta, GA.	49 CFR 173.301 (a)(1); 173.304.	To modify the special permit to add an additional type certificate to 7.b.(2) and to allow production markings to be obliterated as part of the retest.
11598–M	Metalcraft, Inc., Baltimore, MD	49 CFR 175.3; 180.209	To modify the special permit to authorize an additional Division 2.2 hazardous material.
14815–M	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.315	To reissue the special permit originally issued on an emergency basis to authorize transportation in commerce of nitrous oxide, refrigerated liquid in fifteen non-DOT specification portable tanks that were manufactured to the EN 13530 standard instead of the ASMIE Code Section VIII.
10326–M	Honeywell International, Inc., Morristown, NJ.	49 CFR 178.44; 173.302(a)(2); 175.3.	To modify the special permit to authorize the plating on the EED Cartridge connector pins to be gold and to add drawing 3258082–2 to the special permit.
12087–M	LND, Inc., Oceanside, NY	49 CFR 172.101, (Col. 9); 173.306; 175.3.	To modify the special permit to decrease the maximum allowable pressure from 25 PSIG to 5 PSIG; to add two new design types; and allow the maximum volume of the radiation sensor to be a function of the fill pressure not to exceed 57 grams of BF3 per sensor.
14466–M	Alaska Central Express, Inc., Anchorage, AK.	49 CFR 172.101 Column (9B)	To modify the special permit to authorize an additional Division 1.1D hazardous material.
14925–M	Warbelow's Air Ventures, Inc., Fairbanks, AK.	49 CFR 173.302(1)	To modify the special permit to extend the date in paragraph 11(b) to September 30, 2010.
14844–M	Northern Air Cargo, Anchorage, AK.	49 CFR 173.302(f)	To modify the special permit to authorize cylinders of less than 116 cubic feet to be used after June 30, 2010, to include other oxidizing gases and that the human and veterinary use only provision be removed.
14922–M	Peninsula Airways Inc. (PenAir) Anchorage, AK.	49 CFR 173.302(1)	To modify the special permit to extend the date in paragraph 11(b) to September 30, 2010.
14923–M	Spernak Airways, Anchorage, AK.	49 CFR 173.302(f)	To modify the special permit to extend the date in paragraph 11(b) to September 30, 2010.
14906–M	Arctic Transportation Services, Anchorage, AK.	49 CFR 173.302(f)	To modify the special permit to extend the date in paragraph 11(b) to September 30, 2010.
14931–M	Tucker Aviation Inc., Dillingham, AK.	49 CFR 173.302(f)	To modify the special permit to extend the date in paragraph 11(b) to September 30, 2010.
14904–M	Tatonduk Outfitters Limited dba Everts Air Alaska, Fairbanks, AK.	49 CFR 173.302(f)	To modify the special permit to extend the date in paragraph 11(b) to September 30, 2010.

S.P. No.	Applicant	Regulation(s)	Nature of special permit thereof
14974–M	Continental Batteries, Dallas, TX.	49 CFR 173.159 (e)(4)	To reissue the special permit originally issued on an emergency basis to authorize transportation in commerce of lead batteries from more than one shipper without voiding the exception in § 173.159(e).

S.P. No.	Applicant	Regulation(s)	Nature of special permit thereof
		NEW SPECIAL PERMIT GRANTED	
14967–N	GFS Chemicals, Inc., Columbus, OH.	49 CFR 171–180	To authorize the one-time transportation in commerce of certain hazardous materials to a new site to be transported as essentially unregulated (mode 1).
14966–N	Vulcore Industrial LLC, Fort Wayne, IN.	49 CFR 173.302 and 180 .205	To authorize the manufacture, marking, sale and use of non-DOT specification cylinders for the transportation of compressed air for use in self contained breathing apparatus (modes 1, 2, 3, 4, 5).
14969–N	Pace Air Freight, Inc., Plainfield, IN.	49 CFR 173.196 and 178.609	To authorize the one-way transportation in commerce of certain Category A infectious substances in alternative packaging (freezers) by motor vehicle (mode 1).
14971–N	Northrop Grumman Corporation, Baltimore, MD.	49 CFR 173.24	To allow the controlled release of nitrogen and air from a cylinder during transportation to maintain an inert atmosphere in a shipping container to protect the electronic sensors for a satellite (mode 1).
14974–N	Continental Batteries, Dallas, TX.	49 CFR 173.159 (e)(4)	To authorize the transportation in commerce of lead batteries from more than one shipper without voiding the exception in § 173.159(e) (mode 1).
14978–N	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.181	To authorize the transportation in commerce of pyrophoric liquids in inner metal containers (bubblers) with openings greater than 25mm (1 inch) which are engineered to specific electronics applications that require a larger opening (modes 1, 3).
14981–N	Eclipse Aerospace, Inc. (EAI), Albuquerque, NM.	49 CFR 173.309(b)	To authorize the manufacture, marking, sale and use of non-DOT specification cylinders for use as fire extinguishers (modes 1, 2, 3, 4, 5).
14991–N	Intex Recreation Corp., Long Beach, CA.	49 CFR 173.150 and 172.3 16	To authorize the transportation in commerce of above ground swimming pool kits containing one .2 ounce tube of flammable adhesive each without being marked ORM–D and exceeding the 66 pound weight restriction (mode 1).
14995–N	Grasshopper Aviation, LLC, Wasilla, AK.	49 CFR 172.101	To authorize the Column (9B) transportation in commerce of certain Class I explosive materials which are forbidden for transportation by air, to be transported by cargo aircraft within the State of Alaska when other means of transportation are impracticable or not available (mode 4).
15005–N	Coastal Helicopters, Inc., Juneau, AK.	49 CFR 172.101 Column (9B), 172.204(c)(3), 173.27(b)(2), 175.30(a)(1).	To authorize the transportation in commerce of propane in DOT Specification 4B240, 4BA240, 4BW240 cylinders via helicopter utilizing sling load and 175.75 operations within the state of Alaska without being subject to hazard communication requirements, quantity limitations and certain loading and stowage requirements (mode 4).

S.P No.	Applicant	Regulation(s)	Nature of special permit thereof
		EMERGENCY SPECIAL PERMIT GRANTED	
14927–M	ERA Aviation, Anchorage, AK	49 CFR 173.302(f)	To extend the temporary time limit of June 30 to September 30 to comply with new oxygen cylinder packaging requirements (modes 4, 5).
14909–M	Lake Clark Air, Inc., Port Alsworth, AK.	49 CFR 173.304(f)	To modify the special permit to extend the date in paragraph 11(b) to September 30, 2010 (modes 4, 5).
14908–M	Conocophillips Alaska, Inc., Anchorage, AK.	49 CFR 173.302(f)	To modify the special permit to authorize the extension of paragraph 11(b) to September 30, 2010.
14926–M	Lynden Air Cargo, Anchorage, AK.	49 CFR 173.302(f)	To modify the special permit to authorize the extension of paragraph 11(b) to September 30, 2010 (modes 4, 5).
14905–M	Frontier Flying Service, Inc., Fairbanks, AK.	49 CFR 173.302(f)	To modify the special permit to authorize the extension of paragraph 11(b) to September 30, 2010 (modes 4, 5).
14903–M	Hageland Aviation Services, Inc., Anchorage, AK.	49 CFR 173.302(f)	To modify the special permit to authorize the extension of paragraph 11(b) to September 30, 2010 (modes 4, 5).
14860–M	Alaska Airlines, Seattle, WA ...	49 CFR 173.302(f)	To modify the special permit to authorize the extension of paragraph 11(b) to September 30, 2010 (modes 4, 5).

S.P No.	Applicant	Regulation(s)	Nature of special permit thereof
14984–N	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 171.23(a)(1) and (3) ..	To authorize the transportation in commerce of certain non-DOT specification foreign cylinders containing Dichlorosilane by motor vehicle and cargo vessel (modes 1, 3).
14983–N	Teck Alaska, Inc. Red Dog Operations, Anchorage, AK.	49 CFR 49 CFR 172.101 Column 9(B).	To authorize the transportation in commerce of Xanthates, which exceeds the quantity limitations specified for transportation by cargo aircraft and to add Comustible Liquid n.o.s. (Mineral Oil, Kerosene) N/A UN 1993 PG III (modes 1, 4).
14961–N	Lynden Air Cargo, Anchorage, AK.	49 CFR 171.24(d)(2)	To authorize the air transportation in commerce of cylinders of compressed oxygen without rigid outer packaging to Haiti earthquake disaster areas (mode 4).
14962–N	Northern Air Cargo, Anchorage, AK.	49 CFR.	
14963–N	National Air Cargo Group dba National Airlines, Ypsilanti, MI.	49 CFR 172.101 Column (9B), 172.204(c)(3), 173.27(b)(2) and (b)(3) 175.30(a)(1).	To authorize the one-time, one-way transportation in commerce of certain explosives that are and forbidden for transportation or the quantity limits are exceeded for transportation by cargo only aircraft (mode 4).
14964–N	Korean Air Lines Co., Ltd. (KAL), Los Angeles, CA.	49 CFR 172.101 Column (9B), 172.204(c)(3), 173.27, 175.30(a)(1), 175.320.	To authorize the air transportation in commerce of certain explosives which are forbidden for shipment by cargo-only aircraft (mode 4).
14973–N	NEC Corporation, Fuchu, Tokyo 183–8501.	49 CFR 173.304a, 173301, 172.101 Table Column (9B).	To authorize the transportation in commerce of anhydrous ammonia in non-DOT specification packaging (heat pipes) for installation in a satellite (modes 1, 4).
14975–N	Atlas Air, Inc., Miami, FL	49 CFR	To authorize the one-time transportation in commerce of certain explosives and Division 4.2 hazardous materials that are forbidden for transportation or the quantity limits are exceeded for transportation by cargo only aircraft (mode 4).
14976–N	Air Transport International, L.L.C., Little Rock, AR.	49 CFR	To authorize the one-time transportation in commerce of certain explosives and Division 4.2 hazardous materials that are forbidden for transportation or the quantity limits are exceeded for transportation by cargo only aircraft (mode 4).
14993–N	Ball Corporation, Elgin, FL	49 CFR 172.301(c)	To authorize the transportation in commerce of approximately 173,160 cans containing whipped cream under pressure that were manufactured under DOT–SP 7951 but were inadvertently marked "DOT–SP 2951." (mode 1).
14996–N	Skydance Helicopters of Northern Nevada, Inc., Minden, NV.	49 CFR 172.101 Column (9B), 172.204(c)(3), 173.27(b)(2) and 175.30(a)(1).	To authorize the transportation in commerce of certain forbidden explosives in sling load operations in remote areas of the U.S. without being subject to hazard communication requirements, quantity limitations and certain loading and stowage requirements (mode 4).
15006–N	Alpine Air Alaska, Inc., Girdwood, AK.	49 CFR 172.101 Column (9B)	To authorize the transportation in commerce of certain Class 1 explosive materials which are forbidden for transportation by air, to be transported by cargo aircraft within the State of Alaska when other means of transportation are impracticable or not available (mode 4).
15014–N	Air Logistics of Alaska Inc., Fairbanks, AK.	49 CFR172.101 Column (9B)	To authorize the transportation in commerce of certain Class 1 explosive materials which are forbidden for transportation by air, to be transported by cargo aircraft within the State of Alaska when other means of transportation are impracticable or not available (mode 4).
15015–N	Wood Group Production Services, Sheridan, WY.	49 CFR 172.101 Column (9B)	To authorize the one-time, one-way transportation in commerce of 11 pounds of Division 1.3C explosives that is forbidden for air transportation (mode 4).
15051–N	High Five Fireworks, Inc., Junction City, OR.	49 CFR 173.56	To authorize the one-time, one-way transportation in commerce of certain unapproved fireworks to a warehouse (mode 1).

S.P. No.	Applicant	Regulation(s)	Nature of special permit thereof
		MODIFICATION SPECIAL PERMIT WITHDRAWN	
10266–M	LDH Energy Pipeline LP (Former Grantee: Louis Dreyfus Pipeline LP) Houston, TX.	49 CFR 173.119	To modify the special permit to authorize the deletion of 6 hazardous materials in paragraph 6 of special permit; delete a truck; add a new truck and a new truck drawing to the special permit.
11447–M	SAES Pure Gas, Inc., San Louis Obispo, CA.	49 CFR 173.187	To modify the special permit to increase the number of pressure vessels from six to eight.
11489–M	TRW, Washington, MI	49 CFR 172.320; 173.56(b)	To modify the special permit to authorize an additional Division 1.4C explosive article.

S.P. No.	Applicant	Regulation(s)	Nature of special permit thereof
13998–M	Digital Wave Corporation, Centennial, CO.	49 CFR 172.203(a); 172.302a(b)(2),(4)(5); 180.205(f)(g); 180.209(a), (b)(1)(iv).	To modify the special permit to authorize the use of tare weight to identify DOT 3AI3AA cylinders.
14206–M	Digital Wave Corporation, Englewood, CO.	49 CFR 180.205	To modify the special permit to authorize the use of tare weight to identify DOT 3A/3AA cylinders.
14867–M	GTM Manufacturing, LLC, Amarillo, TX.	49 CFR 173.302a, 173.304a ..	To modify the special permit to authorize cargo vessel and rail freight as additional modes of transportation and to add Division 2.1 and 2.2 hazardous materials to the special permit.

S.P. No.	Applicant	Regulation(s)	Nature of special permit thereof
		NEW SPECIAL PERMIT WITHDRAWN	
14970–N	AmeriGlobe LLC, Lafayette, LA.	49 CFR 178.700	To authorize the manufacture, marking, sale and use of flexible intermediate bulk containers that contain a net mass of less than 400 kg (modes 1, 2, 3, 4, 5).
14987–N	Line Pressure, Inc., Englewood, CO.	49 CFR 172.407	To authorize the transportation in commerce of cylinders containing medical gas with modified hazard warning labels (modes 1, 2).
14986–N	National Aeronautics and Space Administration (NASA) Kennedy Space Center, FL.	49 CFR 173.302a	To authorize the transportation in commerce of nitrogen, compressed in alternative packaging (a Flex Hose Rotary Coupler Integrated assembly) (modes 1, 4).
14990–N	Manufacturing Technologies Incorporated, Albuquerque, NM.	49 CFR 178.65	To authorize the manufacture, marking, sale and use of non-DOT specification cylinders conforming to the DOT Specification 39 except they are manufactured from stainless steel (modes 1, 2, 3, 4, 5).
15000–N	FIBA Technologies, Inc., Millbury, MA.	49 CFR 180.205(f) and (g) and 180.209(a).	To authorize the transportation in commerce of certain hazardous materials in DOT Specification 3AL cylinders manufactured from aluminum alloy 6061–T6 that are requalified every ten years rather than every five years using 100% ultrasonic examination (modes 1, 2, 3, 4, 5).

S.P. No.	Applicant	Regulation(s)	Nature of special permit thereof
		EMERGENCY SPECIAL PERMIT WITHDRAWN	
14998–N	Daniels Sharpsmart, Inc., Baltimore, MD.	49 CFR 173.197	To authorize the transportation in commerce of regulated medical waste in 450 gallon Gaylord boxes by motor vehicle (mode I).

DENIED

11761–M	Request by Eli Lilly & Company, Clinton, IN, August 02, 2010. To modify the special permit to add an additional Class 8 hazardous material.
14979–N	Request by M & N Aviation, Inc., Carolina, March 31, 2010. To authorize the air transportation in commerce of certain explosives which are forbidden or exceed quantity limits for shipment by cargo-only aircraft.

S.P No.	Applicant	Regulation(s)	Nature of special permit thereof
14429–M	Schering-Plough, Summit, NJ	49 CFR 173.306(a)(3)(v)	To modify the special permit to authorize an alternative testing method to the hot water bath.
14968–N	Zubiate Machine Works LLC, Roosevelt, UT.	49 CFR 177.834	To authorize the manufacture, mark and sale of refueling tanks as intermediate bulk containers for use in transporting various Class 3 hazardous materials and discharging without being removed from the motor vehicle (mode 1).
14982–N	StarLite Propane Gas Corporation, Bay Shore, NY.	49 CFR.	
15009–N	R M A Lumber Inc., Dill Wyn, VA.	49 CFR 107	Transport Cargo tank off Road Diesel Fuel on lowboy (mode 1).
15011–N	SolvChem, Pearland, TX	49 CFR 173.24(g) 49 CFR 173.24a(b)4 49 CFR parts 106, 107, 171–180.	SP–11836 (mode 1).

S.P No.	Applicant	Regulation(s)	Nature of special permit thereof
15016–N	Ashland Inc., Pittsburgh, PA ...	49 CFR 177.834(i)(4)	49 CFR 177.834(i)(4) requires that the qulaified person is authorized to move the cargo tank, and he has the means to do so. We are requesting relief from this part of the regulation. Our safety policy in the plant requires that in the event of an emergency the transfer is shut down and all personnel must report to an assesmbly point for accountability. All motor vehicles are shut down and not permitted to move which become an ignition source. (mode 1).
15017–N	Ashland Inc., Pittsburgh, PA ...	49 CFR 177.834(i)(4)	49 CFR 177.834(i)(4) requires that the qualified person is authorized to move the cargo tank, and he has the means to do so. We are requesting relief from this part of the regulation. Our safety policy in the plant requires that in the event of an emergency the transfer is shut down and all personnel must report to an assesmbly point for accountability. All motor vehicles are shut down and not permitted to move which become an ignition source (mode 1).
15018–N	Modern Gas, Greenwich, CT ..	49 CFR 173.315	Need to transport 500 gallon above ground propane storage tank with 50% product in it because we are unable to remove existing product (mode 1).
15020–N	ChemQuest, Inc., Pasadena, TX.	49 CFR 107.109	To obtain special permit DOT–SP 11836 for Aqua Ammonia Drums (mode 1).
15021–N	New York & Atlantic Railway, Ridgewood, NY.	49 CFR SP7616	Appling for SP7616 (mode 2).
15024–N	New Hampshire Northcoast Corp., Ossipee, NH.	49 CFR 107.107	Party status to DOT–SP7616 (mode 2).
15025–N	Burlington Containers, Brooklyn, NY.	49 CFR 173.226 and 173.227	To authorize the transportation in commerce of certain materials toxic by inhalation, Hazard Zone A and B, in alternative packaging (mode 1).
15032–N	GE Transportation, ERIE, PA	49 CFR § 173.189	The United States recently submitted a UN paper (ST/SG/AC.10/c.3/2010/30) requesting a change to Special Provision 239 of the UN Model Regulations to be considered at the upcoming meeting in Geneva June 21–30 2010. This change would allow additional types of sodium battery chemistries to be shipped under UN3292, Batteries, containing sodium. Currently the DOT regulations in 49 CFR § 173.189, ICAO Special Provision A94 and Special Provision 239 of the UN Model Regulations are specific to batteries with chemistries containing sodium, sulphur, and polysulfides only. These regulations do not make allowance for newer battery chemistry technologies to be shipped, such as those containing a corrosive electrolyte consisting of sodium tetrachloroaluminate (a corrosive solid, PGIII) as the secondary electrolyte. We are requesting a special permit to allow batteries containing sodium tetrachloroaluminate (a corrosive solid, PGIII) to be shipped under the DOT regulations via ground, air, and water. (modes 1, 2, 3, 4).
15034–N	Saima Avandero, Fiumicino (Rome), It.	49 CFR—Special Provision USG–05.	Requesting the permit for carrying explosive on a cargo aircraft on behalf of the Italian Ministry of Defence for the "Red Flag" Exercise (mode 4).
15039–N	Boehike Bottled Gas Corp., Cedarburg, WI.	49 CFR Parts 106, 107 and 171–180.	Applying for DOT–SP 13341 for Boehlke Bottled Gas Corp. Member of NPGA (mode 1).
15049–N	Hernco Fabrication & Services, Midland, TX.	49 CFR—We are requesting that Special Permit SP–13027 be renewed. The current form of this special permit is accurate and unchanged..	We are requesting that Special Permit SP–13027 be renewed.
15057–N	Department of Forestry and Fire Protection, McClellan, CA.	49 CFR Parts 106, 107, 171–180.	Renewal for DOT–SP 9198 (mode 4).
15064–N	Ouachita Railroad, El Dorado, AR.	49 CFR 107.109	Requesting a DOT–SP 7616 for the Ouachita Railroad (mode 2).
14958–N	.....	49 CFR.	
15008–N	NOVEL Chemical Solutions, Crete, NE.	49 CFR 172.301	NCS need the DOT–SP 172.301 for shipping nonbulk packages of hazardous good (research chemicals) to pharmaceutical companies. (modes 1, 3, 4, 5).
15035–N	Drexel Chemical, Memphis, TN.	49 CFR 107.109	Special Permit to carry Aluminum phosphide in limited Quantities by private motor vehicles without a placarded.

[FR Doc. 2010–20910 Filed 8–24–10; 8:45 am]
BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Special Permit

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for modification of special permits

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modification of special permits (*e.g.*, to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "M" denote a modification request. These applications have been separated from the new application for special permits to facilitate processing.

DATES: Comments must be received on or before September 9, 2010.

Address Comments to: Record Center, Pipeline and Hazardous Materials Safety Administration U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue, SE., Washington, DC or at *http://regulations.gov.*

This notice of receipt of applications for modification of special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5 117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on August 19, 2010.

Donald Burger,

Chief, Special Permits and Approvals Branch.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permit thereof
MODIFICATION SPECIAL PERMITS				
8453–M		R&R Trucking, Inc., Duenweg, MO.	49 CFR 173.1 14a	To modify the special permit to add an additional Division 5.1 hazardous material.
10656–M		The Conference of Radiation Control Program Directors, Inc., Frankfort, KY.	49 CFR 172.203(d); Part 172, Subparts C, D, E, F, G.	To modify the special permit add 49 CFR Part I72 Subpart I as it pertains to security plans to the list of regulations exempted in paragraph 4.
11406–M		Conference of Radiation Control Program Directors, Inc. 174, Frankfort, KY.	49 CFR Part 172, Subparts C, D, E, F, G, H; Part 173, Subparts B, I; Subpart K; 177.842.	To modify the special permit add 49 CFR Part 172 Subpart I as it pertains to security 173.22(a)(1); Part plans to the list of regulations exempted in paragraph 4.
12463–M		Washington State Dept./ Washington State Ferries, Seattle, WA.	49 CFR 172.101 Column (10); 172.301(c); 172.302(c); 173.302(a).	To modify the special permit to add a new vessel.
12930–M		Roeder Cartage Company, Inc., Lima, OH.	49 CFR I 80.407(c),(e) and (f).	To modify the special permit to add an additional Class 8 hazardous material and two additional trailers.
13112–M		Conax Florida Corporation, St. Petersburg, FL.	49 CFR 173.302; 175.3	To modify the special permit to change a drawing number; to lower the temperature range for the safety device and pressure relief system; and change the maximum service pressure, the minimum test pressure and the minimum burst pressure.
132 13–M		Washington State Ferries, Seattle, WA.	49 CFR 172.101(10a)	To modify the special permit to add a new vessel.
1331 3–M		Washington State Ferries Inc., Seattle, WA.	49 CFR 172.101(10a)	To modify the special permit to add of a new vessel.
14466–M		Arctic Circle Air Service, Fairbanks, AK.	49 CFR 172.101 Column (9B).	To modify the special permit to add an additional Division 1.1D hazardous material.
14849–M		Rechargeable Battery Recycling Corporation, Atlanta, GA.	49 CFR 172.200, 172.300, 172.400.	To modify the special permit to authorize cargo vessel shipments from Puerto Rico and Guam.
14854–M		Airgas, Inc., Radnor, PA	49 CFR 180.209	To modify the special permit to waive the requirement to have each shipping paper the notation "DOT–SP 14954".

[FR Doc. 2010–21015 Filed 8–24–10; 8:45 am]
BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline And Hazardous Materials Safety Administration

Office Of Hazardous Materials Safety; Notice of Application for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before September 24, 2010.

Address Comments to: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue, SE., Washington, DC, or at *http://regulations.gov.*

This notice of receipt of applications for special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on August 19, 2010.

Donald Burger,

Chief Special Permits and Approvals Branch.

NEW SPECIAL PERMITS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits thereof
15088–N		Burlington Containers Brooklyn, NY.	49 CFR 173.226 173.227	To authorize the transportation in commerce of certain materials toxic by inhalation, Hazard Zone A and B, in alternative packaging by motor vehicle (mode 1).
15092–N	.....	Tatonduk Outfitters Limited dbaEverts Air Alaska Fairbanks, AK.	49 CFR 173.302(f)(3) and (f)(4) and 173.304(f)(3) and (f)(4).	To authorize the transportation in commerce of cylinders containing oxidizing gases without a rigid outer packaging capable of passing the Flame Penetration and Resistance Test and the Thermal Resistance Test when no other practical means of transportation exist (modes 4, 5).
15094–N	.....	Tucker Aviation Inc. Dillingham, AK.	49 CFR 173.302(f)(3) and (f)(4) and 173.304(f)(3) and (f)(4).	To authorize the transportation in commerce of cylinders containing oxidizing gases without a rigid outer packaging capable of passing the Flame Penetration and Resistance Test and the Thermal Resistance Test when no other practical means of transportation exist (modes 4, 5).

NEW SPECIAL PERMITS—Continued

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits thereof
15095–N	.....	Wright Air Service, Inc. Fairbanks, AK.	49 CFR 173.302(f)(3) and (f)(4) and 173.304(f)(3) and (f)(4).	To authorize the transportation in commerce of cylinders containing oxidizing gases without a rigid outer packaging capable of passing the Flame Penetration and Resistance Test and the Thermal Resistance Test when no other practical means of transportation exist (modes 4, 5).
15096–N	.....	NK CO., LTD Saha-Gu, Busan.	49 CFR 180.209(a), 180.205(c)(f)(g) and (i) and 173.302a(b)(2), (3), (4) and (5).	To authorize the transportation in commerce of certain DOT 3A, AAA, 3AX, 3AAX and 3T cylinders that have been retested every ten (10) years instead of every five (5) years by acoustic emission and ultrasonic examination (AE/IJE) in place of the internal visual inspection and the hydrostatic retest required by § 180.205 (modes 1, 2, 3, 4, 5).

[FR Doc. 2010–21017 Filed 8–24–10; 8:45 am]
BILLING CODE 4909–60–M

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Proposed Data Collection; Comment Request: New Markets Tax Credit (NMTC) Program—Allocation Application

ACTION: Notice and request for comments.

SUMMARY: The U.S. Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A). Currently, the Community Development Financial Institutions (CDFI) Fund, Department of the Treasury, is soliciting comments concerning the New Markets Tax Credit (NMTC) Program—Allocation Application (hereafter, the Application).

DATES: Written comments must be received on or before October 25, 2010 to be assured of consideration.

ADDRESSES: Direct all comments to Rosa Martinez, Acting NMTC Program Manager, Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005, by e-mail to *cdfihelp@cdfi.treas.gov,* or by facsimile to (202) 622–7754. Please note this is not a toll free number.

FOR FURTHER INFORMATION CONTACT: The Application and the NMTC Program Notice of Allocation Availability (NOAA) for the FY 2010 allocation round (75 FR 4077, April 8, 2010) may be obtained from the NMTC Program page of the CDFI Fund's Web site at *http://www.cdfifund.gov.* Requests for additional information should be directed to Rosa Martinez, Acting NMTC Program Manager, Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005, by e-mail to *cdfihelp@cdfi.treas.gov,* or by facsimile to (202) 622–7754. Please note this is not a toll free number.

SUPPLEMENTARY INFORMATION:

Title: New Markets Tax Credit (NMTC) Program—Allocation Application.

OMB Number: 1559–0016.

Abstract: Title I, subtitle C, section 121 of the Community Renewal Tax Relief Act of 2000 (the Act), as enacted in the Consolidated Appropriations Act, 2001 (Pub. L. 106–554, December 21, 2000), amended the Internal Revenue Code (IRC) by adding IRC § 45D and created the NMTC Program. The Department of the Treasury, through the CDFI Fund, administers the NMTC Program, which provides an incentive to investors in the form of tax credits over seven years that stimulates private investment capital that, in turn, facilitates economic and community development in low-income communities. In order to receive the tax credit, taxpayers make Qualified Equity Investments (QEIs) in Community Development Entities (CDEs): substantially all of the QEI proceeds must in turn be used by the CDE to provide investments in businesses and real estate developments in low-income communities.

The tax credit provided to the investor totals 39 percent of the amount of the investment and is claimed over a seven-year period. In each of the first three years, the investor receives a credit equal to five percent of the total amount paid for the stock or capital interest at the time of purchase. For the final four years, the value of the credit is six percent annually. Investors may not redeem their investments in CDEs prior to the conclusion of the seven-year period without forfeiting any credit amounts they have received.

The CDFI Fund is responsible for certifying organizations as CDEs, and administering the competitive allocation of tax credit authority to CDEs, which it does through annual allocation rounds. As part of the award selection process, all CDEs are required to prepare and submit the Application, which includes four key sections (Business Strategy; Community Impact; Management Capacity; and Capitalization Strategy). During the first phase of the review process, each Application is rated and scored independently by three different readers.

In scoring each Application, reviewers rate each of the four evaluation sections as follows: Weak (0–5 points); Limited (6–10 points); Average (11–15 points); Good (16–20 points); and Excellent (21–25 points). Applications can be awarded up to ten additional "priority" points for demonstrating a track record of serving disadvantaged business and communities and/or for committing to make investments in projects owned by unrelated parties. If one or more of the three readers provides an anomalous score, and it is determined that such an anomaly would affect the outcome of the final awardee pool, then a fourth reviewer will score the Application, and the anomalous score would likely be dropped.

Once all of the scores have been finalized, including anomaly score adjustments, those Applications that meet minimum aggregate scoring thresholds in each of the four major review sections (as well as a minimum overall scoring threshold) are eligible to be considered for an allocation. They are reviewed by an internal CDFI Fund panel, with a Lead Panelist making an award recommendation to a Panel Manager, and the Panel Manager making an award recommendation to the Selecting Official. If the Selecting Official's award recommendation varies significantly from the recommendation of the Panel Manager, then a Reviewing Official makes the final award determination. Awards are made, in descending order of the final rank score, until the available allocation authority for a given round is fully expended.

Current Actions: Revision of a currently approved collection.

Type of review: Regular review.

Affected public: CDEs seeking NMTC Program allocation authority.

Estimated Number of Respondents: 249.

Estimated Annual Time per Respondent: 249 hours.

Estimated Total Annual Burden Hours: 62,155 hours.

Requests for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record and may be published on the Fund Web site at *http://www.cdfifund.gov.* 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 technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

Authority: 26 U.S.C. 45D; 26 CFR 1.45D–1.

Dated: August 20, 2010.

Donna J. Gambrell,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2010–21181 Filed 8–24–10; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Bureau of Engraving and Printing

Privacy Act of 1974, as Amended

AGENCY: Bureau of Engraving and Printing, Treasury.

ACTION: Notice of proposed Privacy Act systems of records.

SUMMARY: The Treasury Department, Bureau of Engraving and Printing, gives notice of a proposed addition to their systems of records which are subject to the Privacy Act of 1974, as amended, 5 U.S.C. 552a).

DATES: Comments must be received no later than September 24, 2010. This new system of records will be effective October 4, 2010, unless comments are received which result in a contrary determination.

ADDRESSES: Comments may be submitted to the Privacy and Civil Liberties Officer, Bureau of Engraving and Printing, 14th and C Streets, SW., Washington, DC 20228. Comments will be available to the public upon request. The Department will make such comments available for public inspection and copying at BEP, Room 419–A, Bureau of Engraving and Printing, Washington, DC 20228, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect comments by telephoning 202–874–2500. All comments, including attachments and other supporting materials, received are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: James M. Braun, Privacy and Civil Liberties Officer, Bureau of Engraving and Printing, (202) 874–3733.

SUPPLEMENTARY INFORMATION: The Bureau of Engraving and Printing is establishing a system of records for the purpose of providing the Office of Security a management system that will efficiently maintain proper management and accountability of incident and accident reports that take place at BEP facilities.

The new system of records report, as required by 5 U.S.C. 552a(r) of the Privacy Act, has been submitted to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, Federal Agency Responsibilities for Maintaining Records About Individuals, dated February 8, 1996.

The system notice is published in its entirety below.

Dated: August 10, 2010.

Melissa Hartman,

Acting Deputy Assistant Secretary for Privacy, Transparency, and Records.

Treasury/BEP 048

SYSTEM NAME:

Electronic Police Operations Command Reporting System (EPOCRS)—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing, Eastern Currency Facility, 14th and C Streets, SW., Washington, DC, 20228 and Bureau of Engraving and Printing, Western Currency Facility, 9000 Blue Mound Road, Fort Worth, Texas 76131.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Bureau of Engraving and Printing employees (BEP) (Washington, DC and Fort Worth ,Texas), employees of other U.S. government agencies, contractors, service company employees, and visitors who have provided information

to BEP police officers relating to an incident or accident at a BEP facility.

CATEGORIES OF RECORDS IN THE SYSTEM:

The information that will be maintained in this system includes electronic records of criminal/administrative incidents and/or general complaints/concerns reported to the BEP Police Services Division by Bureau employees that require investigation, response, and reporting for purposes of administrative processing activity at the agency. Information that will be collected and maintained includes personal information such as names, addresses, telephone number, and/or other identifiers, dates of birth, property information, such as vehicular data, brand or model identifiers, notification information, narratives, voluntary statements, images, witnesses, and locations of the incident(s).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 5 U.S.C. 552(a)b, 31 U.S.C. 321, 40 U.S.C. 1315(b)(2) (a–c).

PURPOSE:

The purpose of the system is to establish an electronic database for records regarding investigation activity that directly or indirectly impacts BEP persons and property. Records are of an administrative and/or investigative nature involving the BEP.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES FOR SUCH USES:

These records may be used to disclose information to:

(1) Appropriate Federal, state, local agencies responsible for investigating or prosecuting the violation of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of a potential violation of civil or criminal law or regulation;

(2) A court, magistrate, or administrative tribunal, in the course of presenting evidence, including disclosures to opposing counsel or witnesses, for the purpose of civil discovery, litigation, or settlement negotiations or in response to a court order, where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings.

(3) A congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(4) Representatives of the National Archives and Records Administration (NARA) who are conducting records management inspections under authority of 44 U.S.C. 2904 and 2906;

(5) The U.S. Department of Justice (''DOJ'') for its use in providing legal advice to the Department or in representing the Department in a proceeding before a court, adjudicative body, or other administrative body before which the Department is authorized to appear, where the use of such information by the DOJ is deemed by the Department to be relevant and necessary to the litigation, and such proceeding names as a party or interests:

(a) The Department or any component thereof;

(b) Any employee of the Department in his or her official capacity;

(c) Any employee of the Department in his or her individual capacity where DOJ has agreed to represent the employee; or

(e) The United States, where the Department determines that litigation is likely to affect the Department or any of its components, and

(6) Appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records will be stored on electronic media and hardcopy.

RETRIEVABILITY:

Records are retrieved by name of the individual(s) involved in the incident, date(s) of the incident, and by system generated report numbers.

SAFEGUARDS:

Access to records is limited to the Office of Security senior management staff, Police Operations Division staff, Office of Information Technology (IT) staff, IT contractors, and Office of Compliance staff located at the Washington, DC and Fort Worth, Texas facilities. Desktop PCs are password controlled by users.

RETENTION AND DISPOSAL:

Records are to be retained in accordance with the BEP Records Retention and Disposal Schedule as required by the National Archives and Records Administration (NARA).

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Police Operations Division (POD), Office of Security, Eastern Currency Facility, Bureau of Engraving and Printing, 14th and C Streets, SW., Washington, DC. 20228 and Manager, Security Division, Western Currency Facility, Bureau of Engraving and Printing, 9000 Blue Mound Road, Fort Worth, Texas 76131.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Privacy Act Officer, Bureau of Engraving and Printing, 14th and C Streets, SW., Room 419–A, Washington, DC 20228.

RECORD ACCESS PROCEDURE:

See ''Notification Procedure.''

CONTESTING RECORD PROCEDURE:

See ''Notification Procedure.''

RECORD SOURCE CATEGORIES:

The (1) incident, (2) individual(s) directly or indirectly involved, (3) authorized official(s) or legal representative(s) of individual(s), (4) legal representative of firms, company, or agency.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2010–21132 Filed 8–24–10; 8:45 am]

BILLING CODE 4840–01–P

Federal Register

Wednesday,
August 25, 2010

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Proposed Frameworks for Late-Season Migratory Bird Hunting Regulations; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–R9–MB–2010–0040; [91200–1231–9BPP–L2]

RIN 1018–AX06

Migratory Bird Hunting; Proposed Frameworks for Late-Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; supplemental.

SUMMARY: The Fish and Wildlife Service (hereinafter Service or we) is proposing to establish the 2010–11 late-season hunting regulations for certain migratory game birds. We annually prescribe frameworks, or outer limits, for dates and times when hunting may occur and the number of birds that may be taken and possessed in late seasons. These frameworks are necessary to allow State selections of seasons and limits and to allow recreational harvest at levels compatible with population and habitat conditions.

DATES: You must submit comments on the proposed migratory bird hunting late-season frameworks on or before September 7, 2010.

ADDRESSES: You may submit comments on the proposals by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R9–MB–2010–0040.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS–R9–MB–2010–0040; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, U.S. Fish and Wildlife Service, Department of the Interior, MS MBSP–4107–ARLSQ, 1849 C Street, NW., Washington, DC 20240; (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2010

On May 13, 2010, we published in the **Federal Register** (75 FR 27144) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and addressed the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. Major steps in the 2010–11 regulatory cycle relating to open public meetings and **Federal Register** notifications were also identified in the May 13 proposed rule. Further, we explained that all sections of subsequent documents outlining hunting frameworks and guidelines were organized under numbered headings. As an aid to the reader, we reiterate those headings here:

1. Ducks
   A. General Harvest Strategy
   B. Regulatory Alternatives
   C. Zones and Split Seasons
   D. Special Seasons/Species Management
   i. September Teal Seasons
   ii. September Teal/Wood Duck Seasons
   iii. Black ducks
   iv. Canvasbacks
   v. Pintails
   vi. Scaup
   vii. Mottled ducks
   viii. Wood ducks
   ix. Youth Hunt
2. Sea Ducks
3. Mergansers
4. Canada Geese
   A. Special Seasons
   B. Regular Seasons
   C. Special Late Seasons
5. White-fronted Geese
6. Brant
7. Snow and Ross's (Light) Geese
8. Swans
9. Sandhill Cranes
10. Coots
11. Moorhens and Gallinules
12. Rails
13. Snipe
14. Woodcock
15. Band-tailed Pigeons
16. Mourning Doves
17. White-winged and White-tipped Doves
18. Alaska
19. Hawaii
20. Puerto Rico
21. Virgin Islands
22. Falconry
23. Other

Subsequent documents will refer only to numbered items requiring attention. Therefore, it is important to note that we will omit those items requiring no attention, and remaining numbered items will be discontinuous and appear incomplete.

On June 10, 2010, we published in the **Federal Register** (75 FR 32872) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations. The June 10 supplement also provided detailed information on the 2010–11 regulatory schedule and announced the Service Regulations Committee (SRC) and Flyway Council meetings.

On June 23 and 24, 2010, we held open meetings with the Flyway Council Consultants at which the participants reviewed information on the current status of migratory shore and upland game birds and developed recommendations for the 2010–11 regulations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; special September waterfowl seasons in designated States; special sea duck seasons in the Atlantic Flyway; and extended falconry seasons. In addition, we reviewed and discussed preliminary information on the status of waterfowl as it relates to the development and selection of the regulatory packages for the 2010–11 regular waterfowl seasons. On July 29, 2010, we published in the **Federal Register** (75 FR 44856) a third document specifically dealing with the proposed frameworks for early-season regulations. In late August 2010, we will publish a rulemaking establishing final frameworks for early-season migratory bird hunting regulations for the 2010–11 season.

On July 28 and 29, 2010, we held open meetings with the Flyway Council Consultants, at which the participants reviewed the status of waterfowl and developed recommendations for the 2010–11 regulations for these species. This document deals specifically with proposed frameworks for the late-season migratory bird hunting regulations. It will lead to final frameworks from which States may select season dates, shooting hours, areas, and limits.

We have considered all pertinent comments received through July 30, 2010, on the May 13 and June 10, 2010, rulemaking documents in developing this document. In addition, new proposals for certain late-season regulations are provided for public comment. The comment period is specified above under **DATES**. We will publish final regulatory frameworks for late-season migratory game bird hunting in the **Federal Register** on or around September 22, 2010.

Population Status and Harvest

The following paragraphs provide preliminary information on the status of waterfowl and information on the status and harvest of migratory shore and upland game birds excerpted from various reports. For more detailed information on methodologies and results, you may obtain complete copies of the various reports at the address indicated under **FOR FURTHER INFORMATION CONTACT** or from our Web

site at *http://www.fws.gov/migratorybirds/NewsPublicationsReports.html.*

Waterfowl Breeding and Habitat Survey

Federal, provincial, and State agencies conduct surveys each spring to estimate the size of breeding populations and to evaluate the conditions of the habitats. These surveys are conducted using fixed-wing aircraft, helicopters, and ground crews and encompass principal breeding areas of North America, covering an area over 2.0 million square miles. The traditional survey area comprises Alaska, Canada, and the north-central United States, and includes approximately 1.3 million square miles. The eastern survey area includes parts of Ontario, Quebec, Labrador, Newfoundland, Nova Scotia, Prince Edward Island, New Brunswick, New York, and Maine, an area of approximately 0.7 million square miles.

Overall, habitat conditions during the 2010 Waterfowl Breeding Population and Habitat Survey were characterized by average to below-average moisture and a mild winter and early spring across the entire traditional (including the northern locations) and eastern survey areas. The total pond estimate (Prairie Canada and U.S. combined) was 6.7 ± 0.2 million. This was similar to the 2009 estimate and 34 percent above the long-term average of 5.0 ± 0.03 million ponds.

Traditional Survey Area (U.S. and Canadian Prairies and Parklands)

Conditions across the Canadian prairies were similar to 2009. Portions of southern Alberta, Saskatchewan, and Manitoba improved, but a large area along the Alberta and Saskatchewan border remained dry, and moisture levels in portions of Manitoba declined from last year. The 2010 estimate of ponds in Prairie Canada was 3.7 ± 0.2 million. This was similar to last year's estimate (3.6 ± 0.1 million) and to the 1955–2009 average (3.4 ± 0.03 million). Residual water remains in the Parklands and these were classified as fair to good. Most of the Prairie-Parkland region of Canada received abundant to historically high levels of precipitation during and after the survey, which, while possibly flooding some nests, will produce excellent brood-rearing habitat for successful nesters and lessen the impact of the normal summer drawdown, leading to beneficial wetland conditions next spring.

Wetland numbers and conditions remained fair to good in the eastern U.S. prairies, but habitat conditions declined through the western Dakotas and Montana. The 2010 pond estimate for the north-central United States was 2.9 ± 0.1 million, essentially unchanged from last year's estimate (2.9 ± 0.1 million) and 87 percent above the long-term average (1.6 ± 0.02 million). Fall and winter precipitation in the eastern Dakotas generally improved good habitat conditions already present. However, wetlands in the western Dakotas and Montana were not recharged, resulting in a deterioration of conditions from 2009 at the time the survey was conducted.

Bush (Alaska, Northern Manitoba, Northern Saskatchewan, Northwest Territories, Yukon Territory, Western Ontario)

In the bush regions of the traditional survey area, spring breakup was early. Unlike in 2009, the majority of habitats were ice-free for arriving waterfowl. Habitat of most of the bush region, with the exception of Alaska and the Northwest Territories where conditions were normal, was classified as fair due to below-average moisture, but the early spring should benefit waterfowl across the entire area.

Eastern Survey Area

The boreal forest and Canadian Maritimes of the eastern survey area experienced an early spring as well. Much of southern Quebec and Ontario were classified as poor to fair due to dry conditions, with the exception of an area of adequate moisture in west-central Ontario. More northern boreal forest locations benefited from near-normal precipitation and early ice-free conditions. Although winter precipitation from southwestern Ontario along the St. Lawrence River Valley and into Maine was below average, waterfowl habitat was classified as good to excellent, as in 2009. The James and Hudson Bay Lowlands of Ontario (strata 57–59) were not surveyed in 2010, but reports indicated an early spring in these locations as well.

Breeding Population Status

In the traditional survey area, which includes strata 1–18, 20–50, and 75–77, the total duck population estimate was 40.9 ± 0.7 [SE] million birds. This estimate was similar to last year's estimate of 42.0 ± 0.7 million birds and was 21 percent above the long-term average (1955–2009). Estimated mallard (*Anas platyrhynchos*) abundance was 8.4 ± 0.3 million birds, which was similar to the 2009 estimate of 8.5 ± 0.2 million birds and 12 percent above the long-term average. Estimated abundance of gadwall (*A. strepera;* 3.0 ± 0.2 million) was similar to the 2009 estimate and 67 percent above the long-term average. Estimated abundance of American wigeon (*A. americana;* 2.4 ± 0.1 million) was similar to 2009 and the long-term average. The estimated abundance of green-winged teal (*A. crecca*) was 3.5 ± 0.2 million, which was similar to the 2009 estimate and 78 percent above their long-term average of 1.9 ± 0.02 million. The estimate of blue-winged teal abundance (*A. discors*) was 6.3 ± 0.4 million, which was 14 percent below the 2009 estimate and 36 percent above their long-term average of 4.7 ± 0.04 million. The estimate for northern pintails (*A. acuta;* 3.5 ± 0.2 million) was similar to the 2009 estimate, and 13 percent below the long-term average of 4.0 ± 0.04 million. Estimates of northern shovelers (*A. clypeata;* 4.1 ± 0.2 million) and redheads (*Aythya americana;* 1.1 ± 0.1 million) were similar to their 2009 estimates and were 76 percent and 63 percent above their long-term averages of 2.3 ± 0.02 million and 0.7 ± 0.01 million, respectively. The canvasback estimate (*A. valisineria;* 0.6 ± 0.05 million) was similar to the 2009 estimate and to the long-term average. The scaup estimate (*A. affinis* and *A. marila* combined; 4.2 ± 0.2 million) was similar to that of 2009 and 16 percent below the long-term average of 5.1 ± 0.05 million.

The eastern survey area was restratified in 2005 and is now composed of strata 51–72. Estimates of mallards, scaup, scoters (black [*Melanitta nigra*], white-winged [*M. fusca*], and surf [*M. perspicillata*]), green-winged teal, American wigeon, bufflehead (*Bucephala albeola*), ring-necked duck (*Aythya collaris*), and goldeneyes (common [*B. clangula*] and Barrow's [*B. islandica*]) all were similar to their 2009 estimates and long-term averages. The mergansers (red-breasted [*Mergus serrator*], common [*M. merganser*], and hooded [*Lophodytes cucullatus*]) estimate was 386.4 thousand, which was 15 percent below the 2009 estimate, and 14 percent below the long-term average of 450.8 thousand. The American black duck (*Anas rubripes*) estimate was similar to the 2009 estimate and 7 percent below the long-term average of 478.9 thousand.

Fall Flight Estimate

The mid-continent mallard population is composed of mallards from the traditional survey area (revised in 2008 to exclude Alaska mallards), Michigan, Minnesota, and Wisconsin, and was estimated to be 10.3 ± 0.9 million in 2010. This was similar to the 2009 estimate of 10.3 ± 0.9 million.

See section 1.A. Harvest Strategy Considerations for further discussion of the implications of this information for

this year's selection of the appropriate hunting regulations.

Status of Geese and Swans

We provide information on the population status and productivity of North American Canada geese (*Branta canadensis*), brant (*B. bernicla*), snow geese (*Chen caerulescens*), Ross' geese (*C. rossii*), emperor geese (*C. canagica*), white-fronted geese (*Anser albifrons*), and tundra swans (*Cygnus columbianus*). Temperatures in much of central and northern Canada from January through April were in excess of 5° C warmer than average. Substantially above-average temperatures continued into May and June in important goose habitats within eastern Canada. The resulting accelerated snowmelt contributed to favorable nesting conditions for many mid-latitude and arctic nesting goose populations in 2010. Persistent snow cover significantly delayed goose nesting activities only in the Queen Maud Gulf, Victoria Island, and Wrangel Island regions. Well-above or near-average wetland abundance in the U.S. and Canadian prairie regions and mild spring temperatures in many other temperate regions will likely improve production of Canada geese that nest at southern latitudes. Primary abundance indices for both populations of tundra swans decreased in 2010 from 2009 levels. Primary abundance indices decreased for 15 goose populations and increased for 12 goose populations in 2010 compared to 2009. The following populations displayed significant positive trends during the most recent 10-year period (P < 0:05): Mississippi Flyway Giant, Short Grass Prairie, Aleutian, and Eastern Prairie Canada geese; Western Arctic/Wrangel Island, and Western Central Flyway light geese; and Pacific white-fronted geese. No population showed a significant negative 10-year trend. The forecast for the production of geese and swans in North America for 2010 is regionally variable, but production for many populations will be much improved this year compared to the poor production widely experienced in 2009.

Waterfowl Harvest and Hunter Activity

National surveys of migratory bird hunters were conducted during the 2008 and 2009 hunting seasons. About 1.2 million waterfowl hunters harvested 13,635,700 (±4 percent) ducks and 3,792,600 (±5 percent) geese in 2008, and about 1.1 million waterfowl hunters harvested 13,139,800 (±4 percent) ducks and 3,327,000 (±5 percent) geese in 2009. Mallard, green-winged teal, gadwall, blue-winged/cinnamon teal, and wood duck (*Aix sponsa*) were the 5 most-harvested duck species in the United States, and Canada goose was the predominant goose species in the goose harvest. Coot hunters (about 31,100 in 2008 and 2009) harvested 275,900 (±43 percent) coots in 2008 and 219,000 (±34 percent) in 2009.

Review of Public Comments and Flyway Council Recommendations

The preliminary proposed rulemaking, which appeared in the May 13, 2010, **Federal Register**, opened the public comment period for migratory game bird hunting regulations. The supplemental proposed rule, which appeared in the June 10, 2010, **Federal Register**, discussed the regulatory alternatives for the 2010–11 duck hunting season. Late-season comments are summarized below and numbered in the order used in the May 13 and June 10 **Federal Register** documents. We have included only the numbered items pertaining to late-season issues for which we received written comments. Consequently, the issues do not follow in successive numerical or alphabetical order.

We received recommendations from all four Flyway Councils. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the annual review of the frameworks performed by the Councils, support for continuation of last year's frameworks is assumed for items for which no recommendations were received. Council recommendations for changes in the frameworks are summarized below.

We seek additional information and comments on the recommendations in this supplemental proposed rule. New proposals and modifications to previously described proposals are discussed below. Wherever possible, they are discussed under headings corresponding to the numbered items in the May 13 and June 10, 2010, **Federal Register** documents.

General

Council Recommendations: The Central Flyway Council recommended increasing the possession limit for all migratory birds from twice the daily bag limit to three times the daily bag limit for the 2011–12 hunting seasons.

The Pacific Flyway Council recommended increasing the possession limit for ducks and geese from twice the daily bag limit to three times the daily bag limit, beginning with the 2010–11 season.

Service Response: We are generally supportive of the Flyways' interest in increasing the possession limits for migratory game birds and appreciate the recent discussions to frame this important issue. However, we believe that there are many unanswered questions regarding how this interest can be fully articulated in a proposal that satisfies the harvest management community, while fostering the support of the law enforcement community and informing the general hunting public. Further, because of the current schedule and processes for establishing migratory bird hunting seasons (i.e., early and late season processes), any changes to current possession limits would not be available for the 2010–11 seasons. Consequently, we are proposing the creation of a cross-agency working group, chaired by the Service, and comprised of staff from the Service's Migratory Bird Program, State Wildlife Agency representatives, and Federal and State law enforcement staff, to begin to frame a recommendation that fully articulates a potential change in possession limits. This effort would include a description of the current status and use of possession limits, which populations and/or species/species groups should not be included in any proposed modification of possession limits, potential law enforcement issues, and a reasonable timeline for the implementation of any such proposed changes. Results of the working group efforts would be reported at the January SRC meeting in 2011, and then forwarded to Flyway Technical Committee and Council meetings next winter for further review and refinement. We would present any resulting proposal next spring, with possible implementation during the 2011–12 hunting seasons.

1. Ducks

Categories used to discuss issues related to duck harvest management are: (A) Harvest Strategy Considerations, (B) Regulatory Alternatives, (C) Zones and Split Seasons, and (D) Special Seasons/Species Management. The categories correspond to previously published issues/discussion, and only those containing substantial recommendations are discussed below.

A. Harvest Strategy Considerations

Council Recommendations: The Atlantic, Central, and Pacific Flyway Councils and the Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended the adoption of the "liberal" regulatory alternative.

Service Response: We are continuing development of an Adaptive Harvest Management (AHM) protocol that

would allow hunting regulations to vary among Flyways in a manner that recognizes each Flyway's unique breeding-ground derivation of mallards. In 2008, we described and adopted a protocol for regulatory decision-making for the newly defined stock of western mallards (73 FR 43290). For the 2010 hunting season, we continue to believe that the prescribed regulatory choice for the Pacific Flyway should be based on the status of this western mallard breeding stock, while the regulatory choice for the Mississippi and Central Flyways should depend on the status of the recently redefined mid-continent mallard stock. We also recommend that the regulatory choice for the Atlantic Flyway continue to depend on the status of eastern mallards.

For the 2010 hunting season, we are continuing to consider the same regulatory alternatives as those used last year. The nature of the "restrictive," "moderate," and "liberal" alternatives has remained essentially unchanged since 1997, except that extended framework dates have been offered in the "moderate" and "liberal" regulatory alternatives since 2002. Also, in 2003, we agreed to place a constraint on closed seasons in the western three Flyways whenever the midcontinent mallard breeding-population size (as defined prior to 2008; traditional survey area plus Minnesota, Michigan, and Wisconsin) was ≥ 5.5 million.

Optimal AHM strategies for the 2010–11 hunting season were calculated using: (1) Harvest-management objectives specific to each mallard stock; (2) the 2010 regulatory alternatives; and (3) current population models and associated weights for midcontinent, western, and eastern mallards. Based on this year's survey results of 8.60 million midcontinent mallards (traditional survey area minus Alaska plus Minnesota, Wisconsin, and Michigan), 3.73 million ponds in Prairie Canada, 1,049,000 western mallards (443,000 and 606,000 respectively in California-Oregon and Alaska), and 763,000 eastern mallards, the prescribed regulatory choice for all four Flyways is the "liberal" alternative.

Therefore, we concur with the recommendations of the Atlantic, Mississippi, Central, and Pacific Flyway Councils regarding selection of the "liberal" regulatory alternative and propose to adopt the "liberal" regulatory alternative, as described in the July 29, 2010, **Federal Register**.

C. Zones and Split Seasons

Council Recommendations: The Atlantic, Central, and Pacific Flyway Councils recommended that the Service allow 3 zones, with 2-way splits in each zone, and 4 zones with no splits as additional zone/split-season options for duck seasons during 2011–15.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that the Service allow 3 zones with the season split into 2 segments in each zone, 4 zones with no splits, and 2 zones with the season split into 3 segments in each zone as additional zone/split-season options for duck seasons during 2011–15.

In addition, all four Flyway Councils recommended that States with existing grandfathered status be allowed to retain that status.

Service Response: In 1990, because of concerns about the proliferation of zones and split seasons for duck hunting, we conducted a cooperative review and evaluation of the historical use of zone/split options. This review did not show that the proliferation of these options had increased harvest pressure; however, the ability to detect the impact of zone/split configurations was poor because of unreliable response variables, the lack of statistical tests to differentiate between real and perceived changes, and the absence of adequate experimental controls. Consequently, we established guidelines to provide a framework for controlling the proliferation of changes in zone/split options. The guidelines identified a limited number of zone/split configurations that could be used for duck hunting and restricted the frequency of changes in these configurations to 5-year intervals.

In 1996, we revised the guidelines to provide States greater flexibility in using their zone/split arrangements. In 2005, in further response to recommendations from the Flyway Councils, we considered changes to the zone/split guidelines. After our review, however, we concluded that the current guidelines need not be changed. We further stated that the guidelines would be used for future open seasons (70 FR 55667).

However, while we continue to support the use of guidelines for providing a stable framework for controlling the number of changes to zone/split options, we note the consensus position among all the Flyway Councils on their proposal and are sensitive to the States' desires for flexibility in addressing concerns of the hunting public which, in part, provided the motivation for this recommendation. Furthermore, we remain supportive of the recommendations from the 2008 Future of Waterfowl Management Workshop that called for a greater emphasis on the effects of management actions on the hunting public. Thus, later this fall in a subsequent **Federal Register**, we plan to propose that two specific additional options be added to the existing zone and split season criteria governing State selection of waterfowl zones and splits. The additional options would include four zones with no splits and three zones with the option for 2-way (2-segment) split seasons in one or both zones. Otherwise, the criteria and rules governing the application of those criteria would remain unchanged.

While we are announcing our intention to propose adding the Flyway Councils' recommended two options to the existing zone and split season guidelines, we are not providing all the specifics of our proposal here for several reasons. First, because of the sensitive timing of the annual regulations process, and the necessary abbreviated public comment periods, we want to allow sufficient time for the Flyway Councils, the States, and the public to review and comment on our proposal. Second, because any new zone and split season criteria would not be used until the 2011–12 hunting season, we believe there is no pressing reason to finalize them in the next several months. However, we are also sensitive to providing the States sufficient time to interact with their affected hunting publics on any possible changes to existing zone and split season configurations they may wish to explore and to conduct any public processes needed to implement such changes. Finally, we need additional time to explore all the possible implications and impacts of such changes in the zone and split season guidelines in order to provide the public with all the necessary information for their consideration and comment.

We also note that existing human dimensions data on the relationship of harvest regulations, and specifically zones and splits, to hunter recruitment, retention, and/or satisfaction are equivocal or lacking. In the face of uncertainty over the effects of management actions, the waterfowl management community has broadly endorsed adaptive management and the principles of informed decision-making as a means of accounting for and reducing that uncertainty. The necessary elements of informed decision-making include: Clearly articulated objectives, explicit measurable attributes for objectives, identification of a suite of potential management actions, some means of predicting the consequences of management actions with respect to

stated objectives, and, finally, a monitoring program to compare observations with predictions as a basis for learning, policy adaptation, and more informed decision-making. Currently, none of these elements are used to support decision-making that involves human dimensions considerations. Accordingly, we see this as an opportunity to advance an informed decision-making framework that explicitly considers human dimensions issues.

To that end, we will request that the National Flyway Council marshal the expertise and resources of the Human Dimensions Working Group to develop explicit human dimensions objectives related to expanding zone and split options and a study plan to evaluate the effect of the proposed action in achieving those objectives. It is our hope that the study plan would include hypotheses and specific predictions about the effect of changing zone/split criteria on stated human dimensions objectives, and monitoring and evaluation methods that would be used to test those predictions.

We believe that insights gained through such an evaluation would be invaluable in furthering the ongoing dialogue regarding fundamental objectives of waterfowl management and an integrated and coherent decision framework for advancing those objectives. We will review the objectives and study plan at our January 2011 SRC meeting. We will consider this plan, along with public and Flyway comments on the proposed change to the zones and splits criteria, along with any required National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) analysis, in making a final decision on a course of action next year. We anticipate our final decision sometime this winter.

D. Special Seasons/Species Management

iii. Black Ducks

In 2008, U.S. and Canadian waterfowl managers developed an interim harvest strategy that will be employed by both countries until a formal strategy based on the principles of AHM is completed. We detailed this interim strategy in the July 24, 2008, **Federal Register** (73 FR 43290). The interim harvest strategy is prescriptive, in that it calls for no substantive changes in hunting regulations unless the black duck breeding population, averaged over the most recent 3 years, exceeds or falls below the long-term average breeding population by 15 percent or more. The strategy is designed to share the black duck harvest equally between the two countries; however, recognizing incomplete control of harvest through regulations, it will allow realized harvest in either country to vary between 40 and 60 percent.

Each year in November, Canada publishes its proposed migratory bird hunting regulations for the upcoming hunting season. Thus, last fall the Canadian Wildlife Service (CWS) used the interim strategy to establish its proposed black duck regulations for the 2010–11 season, based on the most current data available at that time: Breeding population estimates for 2007, 2008, and 2009, and an assessment of parity based on harvest estimates for the 2004–08 hunting seasons. Although updates of both breeding population estimates and harvest estimates are now available, the United States will base its 2010–11 black duck regulations on the same data CWS used, to ensure comparable application of the strategy. The long-term (1998–2007) breeding population mean estimate is 717,450 and the 2007–09 3-year running mean estimate is 719,133. Based on these estimates, no restriction or liberalization of black duck harvest is warranted. The average proportion of the harvest during the 5-year period, 2004–08, was 0.56 in the United States and 0.44 in Canada, and this falls within the established parity bounds of 40 and 60 percent.

iv. Canvasbacks

Council Recommendations: The Atlantic, Central, and Pacific Flyway Councils and the Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended a full season for canvasbacks with a 1-bird daily bag limit. Season lengths would be 60 days in the Atlantic and Mississippi Flyways, 74 days in the Central Flyway, and 107 days in the Pacific Flyway.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council also recommended that we update the harvest estimates used to predict the canvasback harvest under the "liberal" AHM regulatory alternative, as used in the existing canvasback harvest strategy, and utilize the most recent 5-year average U.S. canvasback harvest plus a constant accounting for the most recent available Canadian harvest estimates. They further recommended our updates include canvasback harvest estimates for both full (1-bird bag limit) and partial seasons.

Service Response: Since 1994, we have followed a canvasback harvest strategy that if canvasback population status and production are sufficient to permit a harvest of one canvasback per day nationwide for the entire length of the regular duck season, while still attaining a projected spring population objective of 500,000 birds, the season on canvasbacks should be opened. A partial season would be permitted if the estimated allowable harvest was within the projected harvest for a shortened season. If neither of these conditions can be met, the harvest strategy calls for a closed season on canvasbacks nationwide. In 2008 (73 FR 43290), we announced our decision to modify the Canvasback Harvest Strategy to incorporate the option for a 2-bird daily bag limit for canvasbacks when the predicted breeding population the subsequent year exceeds 725,000 birds.

This year's spring survey resulted in an estimate of 585,000 canvasbacks. This was 12 percent below the 2009 estimate of 662,000 canvasbacks and 3 percent above the 1955–2009 average.

The estimate of ponds in Prairie Canada was 3.7 million, which was 5 percent above last year and 9 percent above the long-term average. The canvasback harvest strategy predicts a 2011 canvasback population of 521,000 birds under a "liberal" duck season with a 1-bird daily bag limit and 485,000 with a 2-bird daily bag limit. Because the predicted 2011 population under the 1-bird daily bag limit is greater than 500,000, while the prediction under the 2-bird daily bag limit is less than 725,000, the canvasback harvest strategy stipulates a full canvasback season with a 1-bird daily bag limit for the upcoming season.

With regard to the Mississippi Flyway Council's request to update estimates used to predict canvasback harvest in the Service's harvest strategy, we agree that this feature of the canvasback strategy should be updated. Canvasback harvest estimates from recent hunting seasons are now available to be used in an update of the strategy. We hope to complete the update of the canvasback strategy in time for use in the 2011–12 hunting season, and will provide an update on this work at the next SRC meeting in January.

v. Pintails

Council Recommendations: The Atlantic, Central, and Pacific Flyway Councils and the Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended a full season for pintails, consisting of a 2-bird daily bag limit and a 60-day season in the Atlantic and Mississippi Flyways, a 74-day season in the Central Flyway, and a 107-day season in the Pacific Flyway.

Service Response: The current derived pintail harvest strategy was adopted by

the Service and Flyway Councils in 2010 (75 FR 44856). For this year, optimal regulatory strategies were calculated with: (1) An objective of maximizing long-term cumulative harvest, including a closed-season constraint of 1.75 million birds, (2) the regulatory alternatives and associated predicted harvest, and (3) current population models and their relative weights. Based on this year's survey results of 3.5 million pintails and a mean latitude of 54.4 degrees (latitude corrected breeding population of 4.30 million pintails), the optimal regulatory choice for all four Flyways is the "liberal" alternative with a 2-bird daily bag limit.

vi. Scaup

Council Recommendations: The Atlantic, Central, and Pacific Flyway Councils and the Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended use of the "moderate" regulation package, consisting of a 60-day season with a 2-bird daily bag in the Atlantic and Mississippi Flyways, a 74-day season with a 2-bird daily bag limit in the Central Flyway, and an 86-day season with a 3-bird daily bag limit in the Pacific Flyway.

Service Response: In 2008, we adopted and implemented a new scaup harvest strategy (73 FR 43290 and 73 FR 51124) with initial "restrictive," "moderate," and "liberal" regulatory packages adopted for each Flyway. Further opportunity to revise these packages was afforded prior to the 2009–10 season and modifications by the Mississippi and Central Flyway Councils were endorsed by the Service in June 2009 (74 FR 36870). These packages will remain in effect for at least 3 years prior to their re-evaluation.

The 2010 breeding population estimate for scaup is 4.24 million, up 2 percent from, but similar to, the 2009 estimate of 4.17 million. Total estimated scaup harvest for the 2009–10 season was 277,000 birds. Based on updated model parameter estimates, the optimal regulatory choice for scaup is the "moderate" package recommended by the Councils in all four Flyways.

4. Canada Geese

B. Regular Seasons

Council Recommendations: The Atlantic Flyway Council recommended a 107-day regular Canada goose hunting season, between the Saturday nearest September 24 and March 10, with a daily bag limit of 8 geese, in the Western Long Island Resident Population (RP) area of New York. The season could be split into three segments. The Council recommends this framework in lieu of the current 30-day September season and 80-day regular season (between October 1 and February 15) offered for that area.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended several changes in goose frameworks. In Minnesota and Missouri, the Committees recommended an 85-day Canada goose season with a daily bag limit of 3 geese. In Iowa, they recommend a 107-day Canada goose season with a daily bag limit of 3 geese. In Arkansas, they recommended an 82-day Canada goose season in the Northwest Zone, and a 72-day season in the remainder of the State. The daily bag limit would be 2 Canada geese. All the recommended changes in Canada goose season lengths and bag limits, except in Arkansas, were made in response to changes in the Eastern Prairie Population (EPP) harvest strategy, which the Council approved this summer.

The Central Flyway Council recommended two changes to Canada goose frameworks. In the east-tier States, the Council recommended increasing the Canada goose daily bag limit from 3 to 5 geese. In the west-tier States of Colorado and Texas, the Council recommended raising the dark goose daily bag limit from 4 to 5 geese in the aggregate, with the exception of the Western Goose Zone of Texas, where no more than 1 could be a white-fronted goose (no change).

The Pacific Flyway Council recommended several changes to dark goose season frameworks. In Oregon's Northwest (NW) Permit Goose Zone, the Council recommended extending the framework ending date for dark geese from the Sunday nearest March 1 to March 10. In the Tillamook County Management Area of Oregon's NW Permit Goose Zone, they recommended increasing the dark goose daily bag limit from 2 to 3, with not more than 2 cackling or Aleutian geese per day. In California's Balance of State Zone, they recommended increasing the dark goose season framework from 100 to 107 days.

Service Response: We support the Atlantic Flyway's recommendation regarding season framework changes to the Western Long Island RP area of New York. We recognize that resident Canada geese are causing serious conflicts with human interests and activities in western Long Island, including threats to public health and safety (including airport safety) and property damage concerns. Currently, the State of New York (New York) employs a variety of control methods in this area, but resident Canada geese numbers remain abundant in that area. Further, the Council notes that negligible harvest of geese has occurred during September seasons in western Long Island, primarily due to most of the birds remaining in areas where hunting is not allowed or not feasible, and hunters wanting to avoid conflicts with other outdoor activities at that time of year. However, New York believes, and we agree, that opportunities and interest in hunting for resident geese in this area are greatest in mid to late winter, when geese are most likely to be forced out of inland ponds and lakes to more hunter-accessible coastal areas, and potential conflicts with other outdoor activities would be lowest. Hunting and harvest of RP geese in late winter would help provide some relief and control of geese that are most likely to nest and contribute to local population problems and conflicts. Since this area is already classified as an RP area, we believe that the potential harvest of Atlantic Population (AP) or North Atlantic Population (NAP) geese would be negligible.

In the Mississippi Flyway, we support the recommended changes to season frameworks in Minnesota, Missouri, Iowa, and Arkansas. The proposed changes in Canada goose season lengths and bag limits, except in Arkansas, were made in response to changes in the EPP harvest strategy recently approved by the Council.

Regarding the Central Flyway Council's recommendation to increase the dark goose daily bag limit in the west-tier States of Colorado and Texas from 4 to 5 geese, we concur. Currently, all other west-tier States have a 5 dark goose daily bag limit and the Council's proposed modification is in the relevant goose management plans. Further, the 2008–10 averages of midwinter counts for Hi-Line Population Canada geese (244,107) and Short Grass Prairie Population (SGP) Canada geese (241,132), found mainly in the west tier, remain well above population objective levels (>80,000 and 150,000–200,000, respectively).

However, we do not support the Central Flyway's request to increase the dark goose daily bag limit in the east-tier States from 3 to 5 geese. While we agree that the Flyway's proposed bag limit increase would likely result in an increased harvest of resident Canada geese (Great Plains Population), there are other Canada goose populations that would also be subjected to additional harvest pressure, including the Tall Grass Prairie (TGP), Western Prairie (WP), the EPP populations. One of our

primary concerns with the proposed increase relates to our current collective inability to adequately monitor the population status and harvest of all these various populations. We currently have no surveys that provide reliable estimates of population abundance for Great Plains resident geese in Kansas, Nebraska, Oklahoma, or Texas. Population abundance indices for the TGP (Richardson's Canada geese) are based on midwinter surveys that include unknown proportions of other Canada goose populations and yield highly variable estimates. Additionally, there is little information available about the abundance or harvest of WP geese. Without having this important information, we cannot reliably determine appropriate harvest levels or harvest regulations for the resident Canada goose population and meet management objectives for all the populations likely affected by the proposal. Furthermore, this liberalization would result in markedly disparate harvest regulations between the Central and Mississippi Flyways, which share the TGP and EPP populations. We believe that more coordination with the Mississippi Flyway, which shares the TGP with the Central Flyway, should be pursued prior to the proposed regulatory change. This coordination should include work toward a revision of the management plan for the TGP population, and improved abundance and harvest monitoring for all populations of Canada geese that would be impacted by this proposal. Lastly, we encourage the States in the Central Flyway to fully utilize available tools provided to manage resident Canada geese, including special Canada goose hunting seasons, take of geese in August using management take, other control and depredation orders specifically relevant to resident Canada geese, and Statewide special Canada goose permits, to reduce the growth of resident Canada goose populations.

We do agree with the Pacific Flyway Council's recommendation to extend the framework closing date in Oregon's NW Permit Goose Zone to March 10. This proposed change would allow Oregon's NW Permit Goose season to close 7–14 days later than currently allowed and is intended to help alleviate agricultural depredations caused by wintering geese in this area during this slightly later period when the Council believes that grazing by geese may be especially detrimental to crops. The Council does not expect the proposed change to measurably increase harvest since goose harvest per week, as measured at the mandatory check stations in this zone, remains relatively constant during the season. We agree.

Similarly, we also agree with the Council's recommendation to increase the dark goose daily bag limit in the Tillamook County Management Area of Oregon's NW Permit Goose Zone from 2 to 3, with not more than 2 cackling or Aleutian Canada geese per day. This proposed change is expected to have only a negligible impact on the harvest level of migrant Canada geese and an even smaller affect on the harvest of cackling and Aleutian Canada geese since it maintains the current NW Permit Zone restriction regarding cackling and Aleutian Canada geese. Harvest data collected during the first 3 seasons in which goose hunting was allowed in Tillamook County since 1982 indicates that the overall goose harvest has remained moderate, with 238, 297, and 285 geese taken during the during the last three seasons, respectively. The vast majority of these birds have been classified as either western Canada geese (52 percent) or lesser Canada geese (25 percent). It is the Council's and our belief that agricultural depredations in this area will likely be reduced due to the direct removal of some additional geese and the increased hazing effect of additional hunting.

Lastly, we agree with the minor increase in the dark season framework in California's Balance of State Zone, from 100 to 107 days. While most of California's Balance of State zone is outside the historic nesting range of Canada geese, Canada goose breeding populations there have grown significantly in the last 20 years, causing increasing conflicts with humans. Since 1984, daily bag limits for large Canada geese have increased from 2 to 6, and season lengths have increased from 79 days to 100 days. The Council states that increasing the framework season length in this zone will allow for California to use up to 5 days in an early October Canada goose season—an option preferred over a September season because of typically hot September weather in the Central Valley.

C. Special Late Seasons

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended changing Indiana's experimental late Canada goose season (February 1–15) from experimental to operational in the following 30 counties: Adams, Allen, Boone, Clay, De Kalb, Elkhart, Greene, Hamilton, Hancock, Hendricks, Huntington, Johnson, Kosciusko, La Porte, Lagrange, Madison, Marion, Marshall, Morgan, Noble, Parke, St. Joseph, Shelby, Steuben, Starke, Sullivan, Vermillion, Vigo, Wells, and Whitley.

Service Response: In large part, we concur with the Mississippi Flyway Council's recommendation to grant operational status for Indiana's late Canada goose season. However, results from the experiment indicate that the percentage of migrant geese harvested in the 6-county region surrounding Terre Haute exceeds the 20 percent threshold identified in the criteria for special late Canada goose seasons. When we developed the criteria for special late Canada goose seasons, we indicated that States must agree to close any areas to hunting where evidence from band recoveries or other sources indicates unacceptable harvest of non-target populations during the special season (60 FR 45020). Because the Terre Haute region does not meet established criteria, we cannot grant operational status for these 6 counties (Clay, Greene, Parke, Sullivan, Vermillion, and Vigo Counties). For the remaining 24 of the 30 counties involved in the experiment, we do agree with the Mississippi Flyway Council's recommendation and grant them operational status.

We recognize that the recently-published Supplemental Environmental Impact Statement (SEIS) on migratory bird hunting contains a proposal to remove evaluation criteria for special Canada goose seasons (75 FR 39577). In light of this proposal, we would be amenable to allowing the special late season to continue in the Terre Haute region on an experimental basis until the status of evaluation criteria for such seasons has been resolved. In the interim, we will require the same intensity of data collection in the Terre Haute region with regard to morphometric measurements on harvested birds, and analysis of band-recovery and harvest data.

5. White-fronted Geese

Council Recommendations: The Pacific Flyway Council recommended increasing the daily bag limit for white-fronted geese from 2 to 4 for hunting days occurring after the last Sunday in January in the Klamath County Zone of Oregon. They also made several other dark goose recommendations affecting white-fronted geese (see 4. Canada Geese, B. Regular Seasons for further discussion).

Service Response: Specific to white-fronted geese, we concur with the Pacific Flyway Council's recommended changes in the Klamath County Zone of Oregon. The Pacific Population of

greater white-fronted geese is currently above population goal and the index for the population increased substantially this year. The 3-year average is now greater than twice the management goal and we expect excellent production this summer. The Council notes that agricultural depredations caused by spring staging geese in the Klamath Basin continue to be a serious issue and believes that increasing the daily bag limits in Oregon's Klamath Zone will help contribute to addressing this conflict. We note that potential concerns over Tule geese were addressed by the Oregon Department of Fish and Wildlife and California Department of Fish and Game, in cooperation with the Service, completing three seasons of harvest monitoring and flock distribution monitoring during the late-winter in Oregon's Klamath County Zone. Monitoring indicated that very few harvested white-fronted geese (as measured by biologists) were determined to be Tule geese from morphological measurements (4 of 329 geese). Additionally, monitoring of radio-marked Tule geese has shown their preference for habitats in the California portion of the Klamath Basin where they are unavailable for harvest in Oregon. The harvest of Canada geese after the last Sunday in January would continue to be prohibited under the proposal.

6. Brant

Council Recommendations: The Atlantic Flyway Council recommended continuation of a 50-day season with a 2-bird daily bag limit for Atlantic brant.

Service Response: We concur with the Atlantic Flyway Council's recommendation. The 2010 Mid-Winter Index (MWI) for Atlantic brant was 139,400, about 8 percent lower than the 2009 estimate of 151,300. However, conditions appeared to be favorable in most of the breeding range this spring; thus, average to above average brant production is expected this year. The Atlantic Flyway Management Plan calls for a 50-day season and a 2-bird daily bag limit at the current mid-winter index, and we support the season length and bag limit prescribed by the management plan.

7. Snow and Ross's (Light) Geese

Council Recommendations: The Atlantic Flyway Council recommended a 107-day regular season with a 25-bird daily bag limit and no possession limit for light geese in the Atlantic Flyway.

The Pacific Flyway Council made several recommendations concerning light geese. In the Klamath County Zone of Oregon, the Council recommended increasing the daily bag limit for light geese from 4 to 6 for hunting days occurring after the last Sunday in January. The Council also recommended in Oregon's newly created Malheur County Zone, increasing the daily bag limit for light geese from 6 to 10 and specifying that all hunt days occurring after the last Sunday in January should be concurrent with Idaho's Zone 2.

Service Response: We support the Atlantic Flyway Council's recommendation to increase the daily bag limit for light geese from 15 to 25. Greater snow geese are above both the Atlantic Flyway and North American Waterfowl Management Plan desired population objectives. Additionally, we have declared light geese (including greater snow geese) an overabundant species and implemented special Conservation Order measures to increase the take of light geese (73 FR 65926 and 73 FR 65954). Given their current population status and our desire to reduce populations, we believe that there is no reason to constrain the daily bag limit to 15 birds and believe that this proposed change may help contribute to higher light goose harvest during regular hunting seasons.

In Oregon, we agree with the Pacific Flyway Council's light goose proposals intended to assist landowners with depredation issues, reduce goose numbers, and enhance goose hazing effects. Taken together, these proposals would allow Oregon the flexibility to hold differential seasons for light geese in the newly proposed Malheur County Zone and the modified Harney and Lake County Zone, and institute a late-winter light goose season in the Malheur County Zone to help address agricultural depredations caused by light geese. By requiring that the proposed Oregon hunt coincide with the current late-winter light goose season in adjacent areas of Idaho, the Council believes that this should help alleviate agricultural depredations caused by staging light geese in adjacent areas of Oregon and Idaho by not allowing geese to simply move into closed areas. We agree. While past light goose harvest has historically been minimal in this area, the Council expects their proposals to significantly increase light goose harvest in Malheur County. They note that during the late winter and early spring, light geese are abundant in portions of Malheur County, especially near agricultural lands in proximity to the Snake River, as the geese stage during migration en route to breeding areas in the Arctic. We note that all 3 populations of light geese in the Pacific Flyway are currently above their respective population goals.

Public Comments

The Department of the Interior's policy is, whenever possible, to afford the public an opportunity to participate in the rulemaking process. Accordingly, we invite interested persons to submit written comments, suggestions, or recommendations regarding the proposed regulations. Before promulgating final migratory game bird hunting regulations, we will consider all comments we receive. These comments, and any additional information we receive, may lead to final regulations that differ from these proposals. You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We will not accept comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section. Finally, we will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked, by the date specified in the **DATES** section.

We will post all comments in their entirety—including your personal identifying information—on *http://www.regulations.gov*. 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. Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Division of Migratory Bird Management, Room 4107, 4501 North Fairfax Drive, Arlington, VA 22203.

For each series of proposed rulemakings, we will establish specific comment periods. We will consider, but possibly may not respond in detail to, each comment. As in the past, we will summarize all comments we receive during the comment period and respond to them after the closing date in the preambles of any final rules.

NEPA Consideration

NEPA considerations are covered by the programmatic document "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport

Hunting of Migratory Birds (FSES 88–14)," filed with the Environmental Protection Agency on June 9, 1988. We published a notice of availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341). In addition, an August 1985 environmental assessment entitled "Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands" is available from the address indicated under the caption **FOR FURTHER INFORMATION CONTACT**.

In a notice published in the September 8, 2005, **Federal Register** (70 FR 53376), we announced our intent to develop a new Supplemental Environmental Impact Statement (SEIS) for the migratory bird hunting program. Public scoping meetings were held in the spring of 2006, as detailed in a March 9, 2006, **Federal Register** (71 FR 12216). We released the draft SEIS on July 9, 2010 (75 FR 39577). The draft SEIS is available by either writing to the address indicated under **FOR FURTHER INFORMATION CONTACT** or by viewing on our Web site at *http://www.fws.gov/migratorybirds.*

Endangered Species Act Consideration

Before issuance of the 2010–11 migratory game bird hunting regulations, we will comply with provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543; hereinafter the Act), to ensure that hunting is not likely to jeopardize the continued existence of any species designated as endangered or threatened or modify or destroy its critical habitat and is consistent with conservation programs for those species. Consultations under section 7 of the Act may cause us to change proposals in this and future supplemental proposed rulemaking documents.

Executive Order 12866

The Office of Management and Budget has determined that this rule is significant and has reviewed this rule under Executive Order 12866. OMB bases its determination of regulatory significance upon the following four criteria:

(a) Whether the rule will have an annual effect of $100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(b) Whether the rule will create inconsistencies with other Federal agencies' actions.

(c) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(d) Whether the rule raises novel legal or policy issues.

An economic analysis was prepared for the 2008–09 season. This analysis was based on data from the 2006 National Hunting and Fishing Survey, the most recent year for which data are available (see discussion in Regulatory Flexibility Act section below). This analysis estimated consumer surplus for three alternatives for duck hunting (estimates for other species are not quantified due to lack of data). The alternatives are (1) Issue restrictive regulations allowing fewer days than those issued during the 2007–08 season, (2) Issue moderate regulations allowing more days than those in alternative 1, and (3) Issue liberal regulations identical to the regulations in the 2007–08 season. For the 2008–09 season, we chose alternative 3, with an estimated consumer surplus across all flyways of $205–$270 million. At this time, we are proposing no changes to the season frameworks for the 2010–11 season, and as such, we will again consider these three alternatives. However, final frameworks will depend on population status information available later this year. For these reasons, we have not conducted a new economic analysis, but the 2008–09 analysis is part of the record for this rule and is available at *http://www.fws.gov/migratorybirds/NewReportsPublications/SpecialTopics/SpecialTopics.html#HuntingRegs* or at *http://www.regulations.gov.*

Regulatory Flexibility Act

The regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis. This analysis was revised annually from 1990–95. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, 2004, and 2008. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2008 Analysis was based on the 2006 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend approximately $1.2 billion at small businesses in 2008. Copies of the Analysis are available upon request from the Division of Migratory Bird Management (see **FOR FURTHER INFORMATION CONTACT**) or from our Web site at *http://www.fws.gov/migratorybirds/NewReportsPublications/SpecialTopics/SpecialTopics.html#HuntingRegs* or at *http://www.regulations.gov.*

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, subpart K, are used in formulating migratory game bird hunting regulations. OMB has approved the information collection requirements of our Migratory Bird Surveys and assigned control number 1018–0023 (expires 2/28/2011). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved

the information collection requirements of the Alaska Subsistence Household Survey, an associated voluntary annual household survey used to determine levels of subsistence take in Alaska, and assigned control number 1018–0124 (expires 4/30/2013). A Federal agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a "significant regulatory action" under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this proposed rule, has determined that this proposed rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this proposed rule, authorized by the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*), does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this proposed rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally-recognized Indian tribes and have determined that there are no effects on Indian trust resources. We solicited proposals for special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2010–11 migratory bird hunting season in the May 13 **Federal Register**. The resulting proposals were contained in an August 6 proposed rule (75 FR 47682). By virtue of these actions, we have consulted with Tribes affected by this rule.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*). We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or Indian tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations.

These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 2010–11 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

Dated: August 12, 2010.

Jane Lyder,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Proposed Regulations Frameworks for 2010–11 Late Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department of Interior approved the following proposals for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting waterfowl and coots between the dates of September 1, 2010, and March 10, 2011. These frameworks are summarized below.

General

Dates: All outside dates noted below are inclusive.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are twice the daily bag limit.

Flyways and Management Units

Waterfowl Flyways

Atlantic Flyway—includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway—includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway—includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway—includes Alaska, Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

Management Units:

High Plains Mallard Management Unit—roughly defined as that portion of the Central Flyway that lies west of the 100th meridian.

Definitions:

For the purpose of hunting regulations listed below, the collective terms "dark" and "light" geese include the following species:

Dark geese: Canada geese, white-fronted geese, brant (except in California, Oregon, Washington, and the Atlantic Flyway), and all other goose species except light geese.

Light geese: Snow (including blue) geese and Ross's geese.

Area, Zone, and Unit Descriptions: Geographic descriptions related to late-season regulations are contained in a later portion of this document.

Area-Specific Provisions: Frameworks for open seasons, season lengths, bag and possession limits, and other special provisions are listed below by Flyway.

Waterfowl Seasons in the Atlantic Flyway

In the Atlantic Flyway States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, North Carolina, Pennsylvania, and Virginia, where Sunday hunting is prohibited statewide by State law, all Sundays are closed to all take of migratory waterfowl (including mergansers and coots).

Special Youth Waterfowl Hunting Days

Outside Dates: States may select 2 consecutive days (hunting days in Atlantic Flyway States with compensatory days) per duck-hunting zone, designated as "Youth Waterfowl Hunting Days," in addition to their regular duck seasons. The days must be held outside any regular duck season on a weekend, holiday, or other non-school day when youth hunters would have the maximum opportunity to participate. The days may be held up to 14 days before or after any regular duck-season frameworks or within any split of a regular duck season, or within any other open season on migratory birds.

Daily Bag Limits: The daily bag limits may include ducks, geese, tundra swans, mergansers, coots, moorhens, and gallinules and would be the same as those allowed in the regular season. Flyway species and area restrictions would remain in effect.

Shooting Hours: One-half hour before sunrise to sunset.

Participation Restrictions: Youth hunters must be 15 years of age or younger. In addition, an adult at least 18 years of age must accompany the youth hunter into the field. This adult may not duck hunt but may participate in other seasons that are open on the special youth day. Tundra swans may only be taken by participants possessing applicable tundra swan permits.

Atlantic Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 25) and the last Sunday in January (January 30).

Hunting Seasons and Duck Limits: 60 days. The daily bag limit is 6 ducks, including no more than 4 mallards (2 hens), 1 black duck, 2 pintails, 1 mottled duck, 1 fulvous whistling duck, 3 wood ducks, 2 redheads, 2 scaup, 1 canvasback, and 4 scoters.

Closures: The season on harlequin ducks is closed.

Sea Ducks: Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may choose to allow the above sea duck limits in addition to the limits applying to other ducks during the regular duck season. In all other areas, sea ducks may be taken only during the regular open season for ducks and are part of the regular duck season daily bag (not to exceed 4 scoters) and possession limits.

Merganser Limits: The daily bag limit of mergansers is 5, only 2 of which may be hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, only two of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Lake Champlain Zone, New York: The waterfowl seasons, limits, and shooting hours shall be the same as those selected for the Lake Champlain Zone of Vermont.

Connecticut River Zone, Vermont: The waterfowl seasons, limits, and shooting hours shall be the same as those selected for the Inland Zone of New Hampshire.

Zoning and Split Seasons: Delaware, Florida, Georgia, Maryland, North Carolina, Rhode Island, South Carolina, and Virginia may split their seasons into three segments; Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Vermont, and West Virginia may select hunting seasons by zones and may split their seasons into two segments in each zone.

Canada Geese

Season Lengths, Outside Dates, and Limits: Specific regulations for Canada geese are shown below by State. These seasons also include white-fronted geese. Unless specified otherwise, seasons may be split into two segments. In areas within States where the framework closing date for Atlantic Population (AP) goose seasons overlaps with special late-season frameworks for resident geese, the framework closing date for AP goose seasons is January 14.

Connecticut:

North Atlantic Population (NAP) Zone: Between October 1 and January 31, a 60-day season may be held with a 2-bird daily bag limit.

Atlantic Population (AP) Zone: A 45-day season may be held between the fourth Saturday in October (October 23) and January 31, with a 3-bird daily bag limit.

South Zone: A special season may be held between January 15 and February 15, with a 5-bird daily bag limit.

Resident Population (RP) Zone: An 80-day season may be held between October 1 and February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

Delaware: A 45-day season may be held between November 15 and January 31, with a 2-bird daily bag limit.

Florida: An 80-day season may be held between November 15 and February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

Georgia: In specific areas, an 80-day season may be held between November 15 and February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

Maine: A 60-day season may be held Statewide between October 1 and January 31, with a 2-bird daily bag limit.

Maryland:

RP Zone: An 80-day season may be held between November 15 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

AP Zone: A 45-day season may be held between November 15 and January 31, with a 2-bird daily bag limit.

Massachusetts:

NAP Zone: A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit. Additionally, a special season may be held from January 15 to February 15, with a 5-bird daily bag limit.

AP Zone: A 45-day season may be held between October 20 and January 31, with a 3-bird daily bag limit.

New Hampshire: A 60-day season may be held statewide between October 1 and January 31, with a 2-bird daily bag limit.

New Jersey:

Statewide: A 45-day season may be held between the fourth Saturday in October (October 23) and January 31, with a 3-bird daily bag limit.

Special Late Goose Season Area: A special season may be held in designated areas of North and South New Jersey from January 15 to February 15, with a 5-bird daily bag limit.

New York:

NAP Zone: Between October 1 and January 31, a 60-day season may be held, with a 2-bird daily bag limit in the High Harvest areas; and between October 1 and February 15, a 70-day season may be held, with a 3-bird daily bag limit in the Low Harvest areas.

Special Late Goose Season Area: A special season may be held between January 15 and February 15, with a 5-bird daily bag limit in designated areas of Chemung, Delaware, Tioga, Broome, Sullivan, Westchester, Nassau, Suffolk, Orange, Dutchess, Putnam, and Rockland Counties.

AP Zone: A 45-day season may be held between the fourth Saturday in October (October 23), except in the Lake Champlain Area where the opening date is October 20, and January 31, with a 3-bird daily bag limit.

Western Long Island RP Zone: A 107-day season may be held between the Saturday nearest September 24 (September 25) and March 10, with an 8-bird daily bag limit. The season may be split into 3 segments.

Rest of State RP Zone: An 80-day season may be held between the fourth Saturday in October (October 23) and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

North Carolina:

SJBP Zone: A 70-day season may be held between October 1 and December 31, with a 5-bird daily bag limit.

RP Zone: An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Northeast Hunt Unit: A 7-day season may be held between the Saturday prior to December 25 (December 18) and January 31, with a 1-bird daily bag limit.

Pennsylvania:

SJBP Zone: A 70-day season may be held between the second Saturday in October (October 9) and February 15, with a 3-bird daily bag limit.

RP Zone: An 80-day season may be held between the fourth Saturday in October (October 23) and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

AP Zone: A 45-day season may be held between the fourth Saturday in October (October 23) and January 31, with a 3-bird daily bag limit.

Rhode Island: A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit. A special late season may be held in designated areas from January 15 to February 15, with a 5-bird daily bag limit.

South Carolina: In designated areas, an 80-day season may be held during November 15 to February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

Vermont: A 45-day season may be held between October 20 and January 31 with a 3-bird daily bag limit in the Lake Champlain Zone and Interior Zone. A 60-day season may be held in the Connecticut River Zone between October 1 and January 31, with a 2-bird daily bag limit.

Virginia:

SJBP Zone: A 40-day season may be held between November 15 and January 14, with a 3-bird daily bag limit. Additionally, a special late season may be held between January 15 and February 15, with a 5-bird daily bag limit.

AP Zone: A 45-day season may be held between November 15 and January 31, with a 2-bird daily bag limit.

RP Zone: An 80-day season may be held between November 15 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

West Virginia: An 80-day season may be held between October 1 and January 31, with a 5-bird daily bag limit. The season may be split into 2 segments in each zone.

Light Geese

Season Lengths, Outside Dates, and Limits: States may select a 107-day season between October 1 and March 10, with a 25-bird daily bag limit and no possession limit. States may split their seasons into three segments.

Brant

Season Lengths, Outside Dates, and Limits: States may select a 50-day season between the Saturday nearest September 24 (September 25) and January 31, with a 2-bird daily bag limit. States may split their seasons into two segments.

Mississippi Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 25) and the last Sunday in January (January 30).

Hunting Seasons and Duck Limits: The season may not exceed 60 days, with a daily bag limit of 6 ducks, including no more than 4 mallards (no more than 2 of which may be females), 1 mottled duck, 1 black duck, 2 pintails, 3 wood ducks, 1 canvasback, 2 scaup, and 2 redheads.

Merganser Limits: The daily bag limit is 5, only 2 of which may be hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, only 2 of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Alabama, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Ohio, Tennessee, and Wisconsin may select hunting seasons by zones.

In Alabama, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Ohio, Tennessee, and Wisconsin, the season may be split into two segments in each zone.

In Arkansas and Mississippi, the season may be split into three segments.

Geese

Split Seasons: Seasons for geese may be split into three segments.

Season Lengths, Outside Dates, and Limits: States may select seasons for light geese not to exceed 107 days, with 20 geese daily between the Saturday nearest September 24 (September 25) and March 10; for white-fronted geese not to exceed 72 days with 2 geese daily or 86 days with 1 goose daily between the Saturday nearest September 24 (September 25) and the Sunday nearest February 15 (February 13); and for brant not to exceed 70 days, with 2 brant daily or 107 days with 1 brant daily between the Saturday nearest September 24 (September 25) and January 31. There is no possession limit for light geese. Specific regulations for Canada geese and exceptions to the above general provisions are shown below by State. Except as noted below, the outside dates for Canada geese are the Saturday nearest September 24 (September 25) and January 31.

Alabama: In the SJBP Goose Zone, the season for Canada geese may not exceed 70 days. Elsewhere, the season for Canada geese may extend for 70 days in the respective duck-hunting zones. The daily bag limit is 2 Canada geese.

Arkansas: In the Northwest Zone, the season for Canada geese may extend for 82 days. In the remainder of the State, the season may not exceed 72 days. The season may extend to February 15. The daily bag limit is 2 Canada geese.

Illinois: The season for Canada geese may extend for 85 days in the North and Central Zones and 66 days in the South Zone. The daily bag limit is 2 Canada geese.

Indiana: The season for Canada geese may extend for 74 days. The daily bag limit is 2 Canada geese.

Late Canada Goose Season Areas:

(a) A special Canada goose season of up to 15 days may be held during February 1–15 in Steuben, Lagrange, Elkhart, St. Joseph, La Porte, Starke, Marshall, Kosciusko, Noble, De Kalb, Allen, Whitley, Huntington, Wells,

Adams, Boone, Hamilton, Madison, Hendricks, Marion, Hancock, Morgan, Johnson, and Shelby Counties. During this special season the daily bag limit cannot exceed 5 Canada geese.

(b) An experimental special Canada goose season of up to 15 days may be held during February 1–15 in Clay, Greene, Parke, Sullivan, Vermillion, and Vigo Counties. During this special season the daily bag limit cannot exceed 5 Canada geese.

Iowa: The season for Canada geese may extend for 107 days. The daily bag limit is 3 Canada geese.

Kentucky:

(a) Western Zone—The season for Canada geese may extend for 70 days (85 days in Fulton County). The season in Fulton County may extend to February 15. The daily bag limit is 2 Canada geese.

(b) Pennyroyal/Coalfield Zone—The season may extend for 70 days. The daily bag limit is 2 Canada geese.

(c) Remainder of the State—The season may extend for 70 days. The daily bag limit is 2 Canada geese.

Louisiana: The season for Canada geese may extend for 44 days. The daily bag limit is 1 Canada goose.

Michigan:

(a) North Zone—The framework opening date for all geese is September 16 and the season for Canada geese may extend for 45 days. The daily bag limit is 2 Canada geese.

(b) Middle Zone—The framework opening date for all geese is September 16 and the season for Canada geese may extend for 45 days. The daily bag limit is 2 Canada geese.

(c) South Zone—The framework opening date for all geese is September 16 and the season for Canada geese may extend for 45 days. The daily bag limit is 2 Canada geese.

(1) Allegan County and Muskegon Wastewater GMU—The framework opening date for all geese is September 16 and the season for Canada geese may extend for 45 days. The daily bag limit is 2 Canada geese.

(2) Saginaw County and Tuscola/Huron GMUs—The framework opening date for all geese is September 16 and the season for Canada geese may extend for 45 days through December 30 and an additional 30 days may be held between December 31 and February 7. The daily bag limit is 2 Canada geese.

(d) Southern Michigan Late Season Canada Goose Zone—A 30-day special Canada goose season may be held between December 31 and February 7. The daily bag limit may not exceed 5 Canada geese.

Minnesota: The season for Canada geese may extend for 85 days. The daily bag limit is 3 Canada geese.

Mississippi: The season for Canada geese may extend for 70 days. The daily bag limit is 3 Canada geese.

Missouri: The season for Canada geese may extend for 85 days. The daily bag limit is 3 Canada geese.

Ohio:

(a) Lake Erie Zone—The season may extend for 74 days. The daily bag limit is 2 Canada geese.

(b) North Zone—The season may extend for 74 days. The daily bag limit is 2 Canada geese.

(c) South Zone—The season may extend for 74 days. The daily bag limit is 2 Canada geese.

Tennessee:

(a) Northwest Zone—The season for Canada geese may not exceed 72 days, and may extend to February 15. The daily bag limit is 2 Canada geese.

(b) Southwest Zone—The season for Canada geese may extend for 72 days. The daily bag limit is 2 Canada geese.

(c) Kentucky/Barkley Lakes Zone—The season for Canada geese may extend for 72 days. The daily bag limit is 2 Canada geese.

(d) Remainder of the State—The season for Canada geese may extend for 72 days. The daily bag limit is 2 Canada geese.

Wisconsin:

(a) Horicon Zone—The framework opening date for all geese is September 16. The season may not exceed 92 days. All Canada geese harvested must be tagged. The season limit will be 6 Canada geese per permittee.

(b) Collins Zone—The framework opening date for all geese is September 16. The season may not exceed 70 days. All Canada geese harvested must be tagged. The season limit will be 6 Canada geese per permittee.

(c) Exterior Zone—The framework opening date for all geese is September 16. The season may not exceed 85 days. The daily bag limit is 2 Canada geese.

Additional Limits: In addition to the harvest limits stated for the respective zones above, an additional 4,500 Canada geese may be taken in the Horicon Zone under special agricultural permits.

Central Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 25) and the last Sunday in January (January 30).

Hunting Seasons:

(1) High Plains Mallard Management Unit (roughly defined as that portion of the Central Flyway which lies west of the 100th meridian): 97 days. The last 23 days may start no earlier than the Saturday nearest December 10 (December 11).

(2) Remainder of the Central Flyway: 74 days.

Bag Limits: The daily bag limit is 6 ducks, with species and sex restrictions as follows: 5 mallards (no more than 2 of which may be females), 2 redheads, 2 scaup, 3 wood ducks, 2 pintails, and 1 canvasback. In Texas, the daily bag limit on mottled ducks is 1, except for the first 5 days of the season when it is closed.

Merganser Limits: The daily bag limit is 5 mergansers, only 2 of which may be hooded mergansers. In States that include mergansers in the duck daily bag limit, the daily limit may be the same as the duck bag limit, only two of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Kansas (Low Plains portion), Montana, Nebraska (Low Plains portion), New Mexico, Oklahoma (Low Plains portion), South Dakota (Low Plains portion), Texas (Low Plains portion), and Wyoming may select hunting seasons by zones.

In Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming, the regular season may be split into two segments.

In Colorado, the season may be split into three segments.

Geese

Split Seasons: Seasons for geese may be split into three segments. Three-way split seasons for Canada geese require Central Flyway Council and U.S. Fish and Wildlife Service approval, and a 3-year evaluation by each participating State.

Outside Dates: For dark geese, seasons may be selected between the outside dates of the Saturday nearest September 24 (September 25) and the Sunday nearest February 15 (February 13). For light geese, outside dates for seasons may be selected between the Saturday nearest September 24 (September 25) and March 10. In the Rainwater Basin Light Goose Area (East and West) of Nebraska, temporal and spatial restrictions that are consistent with the late-winter snow goose hunting strategy cooperatively developed by the Central Flyway Council and the Service are required.

Season Lengths and Limits:

Light Geese: States may select a light goose season not to exceed 107 days. The daily bag limit for light geese is 20 with no possession limit.

Dark Geese: In Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and the Eastern Goose Zone of Texas, States may select a season for Canada geese (or any other dark goose species except white-fronted geese) not to exceed 107 days with a daily bag limit of 3. Additionally, in the Eastern Goose Zone of Texas, an alternative season of 107 days with a daily bag limit of 1 Canada goose may be selected. For white-fronted geese, these States may select either a season of 72 days with a bag limit of 2 or an 86-day season with a bag limit of 1.

In Colorado, Montana, New Mexico and Wyoming, States may select seasons not to exceed 107 days. The daily bag limit for dark geese is 5 in the aggregate.

In the Western Goose Zone of Texas, the season may not exceed 95 days. The daily bag limit for Canada geese (or any other dark goose species except white-fronted geese) is 5. The daily bag limit for white-fronted geese is 1.

Pacific Flyway

Ducks, Mergansers, Coots, Common Moorhens, and Purple Gallinules

Hunting Seasons and Duck Limits: Concurrent 107 days. The daily bag limit is 7 ducks and mergansers, including no more than 2 female mallards, 2 pintails, 3 scaup, 1 canvasback, and 2 redheads. For scaup, the season length would be 86 days, which may be split according to applicable zones/split duck hunting configurations approved for each State.

The season on coots and common moorhens may be between the outside dates for the season on ducks, but not to exceed 107 days.

Coot, Common Moorhen, and Purple Gallinule Limits: The daily bag and possession limits of coots, common moorhens, and purple gallinules are 25, singly or in the aggregate.

Outside Dates: Between the Saturday nearest September 24 (September 25) and the last Sunday in January (January 30).

Zoning and Split Seasons: Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and Wyoming may select hunting seasons by zones. Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and Wyoming may split their seasons into two segments.

Colorado, Montana, and New Mexico may split their seasons into three segments.

Colorado River Zone, California: Seasons and limits shall be the same as seasons and limits selected in the adjacent portion of Arizona (South Zone).

Geese

Season Lengths, Outside Dates, and Limits:

California, Oregon, and Washington:

Dark geese: Except as subsequently noted, 100-day seasons may be selected, with outside dates between the Saturday nearest October 1 (October 2), and the last Sunday in January (January 30). The basic daily bag limit is 4 dark geese, except the dark goose bag limit does not include brant.

Light geese: Except as subsequently noted, 107-day seasons may be selected, with outside dates between the Saturday nearest October 1 (October 2), and March 10. The daily bag limit is 6 light geese.

Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming:

Dark geese: Except as subsequently noted, 107-day seasons may be selected, with outside dates between the Saturday nearest September 24 (September 25), and the last Sunday in January (January 30). The basic daily bag limit is 4 dark geese.

Light geese: Except as subsequently noted, 107-day seasons may be selected, with outside dates between the Saturday nearest September 24 (September 25), and March 10. The basic daily bag limit is 10 light geese.

Split Seasons: Unless otherwise specified, seasons for geese may be split into up to 3 segments. Three-way split seasons for Canada geese and white-fronted geese require Pacific Flyway Council and U.S. Fish and Wildlife Service approval and a 3-year evaluation by each participating State.

Brant Season

Oregon may select a 16-day season, Washington a 16-day season, and California a 30-day season. Days must be consecutive. Washington and California may select hunting seasons by up to two zones. The daily bag limit is 2 brant and is in addition to dark goose limits. In Oregon and California, the brant season must end no later than December 15.

Arizona: The daily bag limit for dark geese is 3.

California:

Northeastern Zone: The daily bag limit is 6 dark geese and may include no more than 1 cackling Canada goose or 1 Aleutian Canada goose.

Balance-of-the-State Zone: A 107-day season may be selected. Limits may not include more than 6 dark geese per day. In the Sacramento Valley Special Management Area, the season on white-fronted geese must end on or before December 14, and the daily bag limit shall contain no more than 2 white-fronted geese. In the North Coast Special Management Area, 107-day seasons may be selected, with outside dates between the Saturday nearest October 1 (October 2) and March 10. Hunting days that occur after the last Sunday in January shall be concurrent with Oregon's South Coast Zone.

Colorado: The daily bag limit for dark geese is 3.

Idaho:

Zone 2: Hunting days that occur after the last Sunday in January shall be concurrent with Oregon's Malheur County Zone.

Nevada: The daily bag limit for dark geese is 3.

New Mexico: The daily bag limit for dark geese is 3.

Oregon:

Except as subsequently noted, the dark goose daily bag limit is 4, including not more than 1 cackling or Aleutian goose.

Harney and Lake County Zone: For Lake County only, the daily dark goose bag limit may not include more than 1 white-fronted goose.

Klamath County Zone: A 107-day season may be selected, with outside dates between the Saturday nearest October 1 (October 2), and March 10. A 3-way split season may be selected. For hunting days which occur after the last Sunday in January the daily bag limit may not include Canada Geese.

Malheur County Zone: The daily bag limit of light geese is 10. Hunting days that occur after the last Sunday in January shall be concurrent with Idaho's Zone 2.

Northwest Special Permit Zone: Outside dates are between the Saturday nearest October 1 (October 2) and March 10. The daily bag limit of dark geese is 4 including not more than 2 cackling or Aleutian geese and daily bag limit of light geese is 4. In those designated areas of Tillamook County open to hunting, the daily bag limit of dark geese is 3, including not more than 2 cackling or Aleutian geese.

South Coast Zone: The daily dark goose bag limit is 4 including cackling and Aleutian geese. In Oregon's South Coast Zone 107-day seasons may be selected, with outside dates between the Saturday nearest October 1 (October 2) and March 10. Hunting days that occur after the last Sunday in January shall be concurrent with California's North Coast Special Management Area. A 3-way split season may be selected.

Southwest Zone: The daily dark goose bag limit is 4 including cackling and Aleutian geese.

Utah: The daily bag limit for dark geese is 3.

Washington: The daily bag limit is 4 geese.

Area 1: Outside dates are between the Saturday nearest October 1 (October 2), and the last Sunday in January (January 30).

Areas 2A and 2B (Southwest Quota Zone): Except for designated areas, there will be no open season on Canada geese. See section on quota zones. In this area, the daily bag limit may include 2 cackling geese. In Southwest Quota Zone Area 2B (Pacific County), the daily bag limit may include 1 Aleutian goose.

Areas 4 and 5: A 107-day season may be selected for dark geese.

Wyoming: The daily bag limit for dark geese is 3.

Quota Zones

Seasons on geese must end upon attainment of individual quotas of dusky geese allotted to the designated areas of Oregon (90) and Washington (45). The September Canada goose season, the regular goose season, any special late dark goose season, and any extended falconry season, combined, must not exceed 107 days, and the established quota of dusky geese must not be exceeded. Hunting of geese in those designated areas will be only by hunters possessing a State-issued permit authorizing them to do so. In a Service-approved investigation, the State must obtain quantitative information on hunter compliance of those regulations aimed at reducing the take of dusky geese. If the monitoring program cannot be conducted, for any reason, the season must immediately close. In the designated areas of the Washington Southwest Quota Zone, a special late goose season may be held between the Saturday following the close of the general goose season and March 10. In the Northwest Special Permit Zone of Oregon, the framework closing date is March 10. Regular goose seasons may be split into 3 segments within the Oregon and Washington quota zones.

Swans

In portions of the Pacific Flyway (Montana, Nevada, and Utah), an open season for taking a limited number of swans may be selected. Permits will be issued by the State and will authorize each permittee to take no more than 1 swan per season with each permit. Nevada may issue up to 2 permits per hunter. Montana and Utah may only issue 1 permit per hunter. Each State's season may open no earlier than the Saturday nearest October 1 (October 2). These seasons are also subject to the following conditions:

Montana: No more than 500 permits may be issued. The season must end no later than December 1. The State must implement a harvest-monitoring program to measure the species composition of the swan harvest and should use appropriate measures to maximize hunter compliance in reporting bill measurement and color information.

Utah: No more than 2,000 permits may be issued. During the swan season, no more than 10 trumpeter swans may be taken. The season must end no later than the second Sunday in December (December 12) or upon attainment of 10 trumpeter swans in the harvest, whichever occurs earliest. The Utah season remains subject to the terms of the Memorandum of Agreement entered into with the Service in August 2001, regarding harvest monitoring, season closure procedures, and education requirements to minimize the take of trumpeter swans during the swan season.

Nevada: No more than 650 permits may be issued. During the swan season, no more than 5 trumpeter swans may be taken. The season must end no later than the Sunday following January 1 (January 2) or upon attainment of 5 trumpeter swans in the harvest, whichever occurs earliest.

In addition, the States of Utah and Nevada must implement a harvest-monitoring program to measure the species composition of the swan harvest. The harvest-monitoring program must require that all harvested swans or their species-determinant parts be examined by either State or Federal biologists for the purpose of species classification. The States should use appropriate measures to maximize hunter compliance in providing bagged swans for examination. Further, the States of Montana, Nevada, and Utah must achieve at least an 80-percent compliance rate, or subsequent permits will be reduced by 10 percent. All three States must provide to the Service by June 30, 2011, a report detailing harvest, hunter participation, reporting compliance, and monitoring of swan populations in the designated hunt areas.

Tundra Swans

In portions of the Atlantic Flyway (North Carolina and Virginia) and the Central Flyway (North Dakota, South Dakota [east of the Missouri River], and that portion of Montana in the Central Flyway), an open season for taking a limited number of tundra swans may be selected. Permits will be issued by the States that authorize the take of no more than 1 tundra swan per permit. A second permit may be issued to hunters from unused permits remaining after the first drawing. The States must obtain harvest and hunter participation data. These seasons are also subject to the following conditions:

In the Atlantic Flyway:

—The season may be 90 days, from October 1 to January 31.

—In North Carolina, no more than 5,000 permits may be issued.

—In Virginia, no more than 600 permits may be issued.

In the Central Flyway:

—The season may be 107 days, from the Saturday nearest October 1 (October 2) to January 31.

—In the Central Flyway portion of Montana, no more than 500 permits may be issued.

—In North Dakota, no more than 2,200 permits may be issued.

—In South Dakota, no more than 1,300 permits may be issued.

Area, Unit, and Zone Descriptions

Ducks (Including Mergansers) and Coots

Atlantic Flyway

Connecticut

North Zone: That portion of the State north of I–95.

South Zone: Remainder of the State.

Maine

North Zone: That portion north of the line extending east along Maine State Highway 110 from the New Hampshire and Maine State line to the intersection of Maine State Highway 11 in Newfield; then north and east along Route 11 to the intersection of U.S. Route 202 in Auburn; then north and east on Route 202 to the intersection of Interstate Highway 95 in Augusta; then north and east along I–95 to Route 15 in Bangor; then east along Route 15 to Route 9; then east along Route 9 to Stony Brook in Baileyville; then east along Stony Brook to the United States border.

South Zone: Remainder of the State.

Massachusetts

Western Zone: That portion of the State west of a line extending south from the Vermont State line on I–91 to MA 9, west on MA 9 to MA 10, south on MA 10 to U.S. 202, south on U.S. 202 to the Connecticut State line.

Central Zone: That portion of the State east of the Berkshire Zone and west of a line extending south from the New Hampshire State line on I–95 to U.S. 1, south on U.S. 1 to I–93, south on I–93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I–195, west to the Rhode Island State line; except the waters, and the lands 150 yards inland from the high-

water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center St.–Elm St. bridge shall be in the Coastal Zone.

Coastal Zone: That portion of Massachusetts east and south of the Central Zone.

New Hampshire

Coastal Zone: That portion of the State east of a line extending west from the Maine State line in Rollinsford on NH 4 to the city of Dover, south to NH 108, south along NH 108 through Madbury, Durham, and Newmarket to NH 85 in Newfields, south to NH 101 in Exeter, east to NH 51 (Exeter–Hampton Expressway), east to I–95 (New Hampshire Turnpike) in Hampton, and south along I–95 to the Massachusetts State line.

Inland Zone: That portion of the State north and west of the above boundary and along the Massachusetts State line crossing the Connecticut River to Interstate 91 and northward in Vermont to Route 2, east to 102, northward to the Canadian border.

New Jersey

Coastal Zone: That portion of the State seaward of a line beginning at the New York State line in Raritan Bay and extending west along the New York State line to NJ 440 at Perth Amboy; west on NJ 440 to the Garden State Parkway; south on the Garden State Parkway to the shoreline at Cape May and continuing to the Delaware State line in Delaware Bay.

North Zone: That portion of the State west of the Coastal Zone and north of a line extending west from the Garden State Parkway on NJ 70 to the New Jersey Turnpike, north on the turnpike to U.S. 206, north on U.S. 206 to U.S. 1 at Trenton, west on U.S. 1 to the Pennsylvania State line in the Delaware River.

South Zone: That portion of the State not within the North Zone or the Coastal Zone.

New York

Lake Champlain Zone: That area east and north of a continuous line extending along U.S. 11 from the New York—Canada International boundary south to NY9B, south along NY 9B to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont State line.

Long Island Zone: That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone: That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania State line.

Northeastern Zone: That area north of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 31, east along NY 31 to NY 13, north along NY 13 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to I–87, north along I–87 to U.S. 9 (at Exit 20), north along U.S. 9 to NY 149, east along NY 149 to U.S. 4, north along U.S. 4 to the Vermont State line, exclusive of the Lake Champlain Zone.

Southeastern Zone: The remaining portion of New York.

Pennsylvania

Lake Erie Zone: The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula.

Northwest Zone: The area bounded on the north by the Lake Erie Zone and including all of Erie and Crawford Counties and those portions of Mercer and Venango Counties north of I–80.

North Zone: That portion of the State east of the Northwest Zone and north of a line extending east on I–80 to U.S. 220, Route 220 to I–180, I–180 to I–80, and I–80 to the Delaware River.

South Zone: The remaining portion of Pennsylvania.

Vermont

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area north and west of the line extending from the New York State line along U.S. 4 to VT 22A at Fair Haven; VT 22A to U.S. 7 at Vergennes; U.S. 7 to the Canadian border.

Interior Zone: That portion of Vermont west of the Lake Champlain Zone and eastward of a line extending from the Massachusetts State line at Interstate 91; north along Interstate 91 to U.S. 2; east along U.S. 2 to VT 102; north along VT 102 to VT 253; north along VT 253 to the Canadian border.

Connecticut River Zone: The remaining portion of Vermont east of the Interior Zone.

West Virginia

Zone 1: That portion outside the boundaries in Zone 2.

Zone 2 (Allegheny Mountain Upland): That area bounded by a line extending south along U.S. 220 through Keyser to U.S. 50; U.S. 50 to WV 93; WV 93 south to WV 42; WV 42 south to Petersburg; WV 28 south to Minnehaha Springs; WV 39 west to U.S. 219; U.S. 219 south to I–64; I–64 west to U.S. 60; U.S. 60 west to U.S. 19; U.S. 19 north to I–79, I–79 north to I–68; I–68 east to the Maryland State line; and along the State line to the point of beginning.

Mississippi Flyway

Alabama

South Zone: Mobile and Baldwin Counties.

North Zone: The remainder of Alabama.

Illinois

North Zone: That portion of the State north of a line extending west from the Indiana border along Peotone-Beecher Road to Illinois Route 50, south along Illinois Route 50 to Wilmington-Peotone Road, west along Wilmington-Peotone Road to Illinois Route 53, north along Illinois Route 53 to New River Road, northwest along New River Road to Interstate Highway 55, south along I–55 to Pine Bluff-Lorenzo Road, west along Pine Bluff-Lorenzo Road to Illinois Route 47, north along Illinois Route 47 to I–80, west along I–80 to I–39, south along I–39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central Zone: That portion of the State south of the North Zone to a line extending west from the Indiana border along Interstate Highway 70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 156, west along Illinois Route 156 to A Road, north and west on A Road to Levee Road, north on Levee Road to the south shore of New Fountain Creek, west along the south shore of New Fountain Creek to the Mississippi River, and due west across the Mississippi River to the Missouri border.

South Zone: The remainder of Illinois.

Indiana

North Zone: That portion of the State north of a line extending east from the Illinois State line along State Road 18 to U.S. Highway 31, north along U.S. 31 to U.S. 24, east along U.S. 24 to Huntington, then southeast along U.S. 224 to the Ohio State line.

Ohio River Zone: That portion of the State south of a line extending east from the Illinois State line along Interstate Highway 64 to New Albany, east along State Road 62 to State Road 56, east along State Road 56 to Vevay, east and north on State 156 along the Ohio River to North Landing, north along State 56 to U.S. Highway 50, then northeast along U.S. 50 to the Ohio State line.

South Zone: That portion of the State between the North and Ohio River Zone boundaries.

Iowa

North Zone: That portion of the State north of a line extending east from the Nebraska border along State Highway 175 to State Highway 37, southeast along State Highway 37 to State Highway 183, northeast along State Highway 183 to State Highway 141, east along State Highway 141 to U.S. Highway 30, then east along U.S. Highway 30 to the Illinois border.

South Zone: The remainder of Iowa.

Kentucky

West Zone: All counties west of and including Butler, Daviess, Ohio, Simpson, and Warren Counties.

East Zone: The remainder of Kentucky.

Louisiana

West Zone: That portion of the State west and south of a line extending south from the Arkansas State line along Louisiana Highway 3 to Bossier City, east along Interstate Highway 20 to Minden, south along Louisiana 7 to Ringgold, east along Louisiana 4 to Jonesboro, south along U.S. Highway 167 to Lafayette, southeast along U.S. 90 to the Mississippi State line.

East Zone: The remainder of Louisiana.

Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Wisconsin State line in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and easterly and southerly along the south shore of Stony Creek to Scenic Drive, easterly and southerly along Scenic Drive to Stony Lake Road, easterly along Stony Lake and Garfield Roads to Michigan Highway 20, east along Michigan 20 to U.S. Highway 10 Business Route (BR) in the city of Midland, easterly along U.S. 10 BR to U.S. 10, easterly along U.S. 10 to Interstate Highway 75/U.S. Highway 23, northerly along I–75/U.S. 23 to the U.S. 23 exit at Standish, easterly along U.S. 23 to the centerline of the Au Gres River, then southerly along the centerline of the Au Gres River to Saginaw Bay, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canadian border.

South Zone: The remainder of Michigan.

Minnesota

North Duck Zone: That portion of the State north of a line extending east from the North Dakota State line along State Highway 210 to State Highway 23, east along State Highway 23 to State Highway 39, then east along State Highway 39 to the Wisconsin State line at the Oliver Bridge.

South Duck Zone: The remainder of Minnesota.

Missouri

North Zone: That portion of Missouri north of a line running west from the Illinois State line (Lock and Dam 25) on Lincoln County Highway N to Missouri Highway 79; south on Missouri Highway 79 to Missouri Highway 47; west on Missouri Highway 47 to Interstate 70; west on Interstate 70 to the Kansas State line.

South Zone: That portion of Missouri south of a line running west from the Illinois State line on Missouri Highway 34 to Interstate 55; south on Interstate 55 to U.S. Highway 62; west on U.S. Highway 62 to Missouri Highway 53; north on Missouri Highway 53 to Missouri Highway 51; north on Missouri Highway 51 to U.S. Highway 60; west on U.S. Highway 60 to Missouri Highway 21; north on Missouri Highway 21 to Missouri Highway 72; west on Missouri Highway 72 to Missouri Highway 32; west on Missouri Highway 32 to U.S. Highway 65; north on U.S. Highway 65 to U.S. Highway 54; west on U.S. Highway 54 to the Kansas State line.

Middle Zone: The remainder of Missouri.

Ohio

North Zone: That portion of the State north of a line extending east from the Indiana State line along U.S. Highway 33 to State Route 127, south along SR 127 to SR 703, south along SR 703 to SR 219, east along SR 219 to SR 364, north along SR 364 to SR 703, east along SR 703 to SR 66, north along SR 66 to U.S. 33, east along U.S. 33 to SR 385, east along SR 385 to SR 117, south along SR 117 to SR 273, east along SR 273 to SR 31, south along SR 31 to SR 739, east along SR 739 to SR 4, north along SR 4 to SR 95, east along SR 95 to SR 13, southeast along SR 13 to SR 3, northeast along SR 3 to SR 60, north along SR 60 to U.S. 30, east along U.S. 30 to SR 3, south along SR 3 to SR 226, south along SR 226 to SR 514, southwest along SR 514 to SR 754, south along SR 754 to SR 39/60, east along SR 39/60 to SR 241, north along SR 241 to U.S. 30, east along U.S.30 to SR 39, east along SR 39 to the Pennsylvania State line.

South Zone: The remainder of Ohio.

Tennessee

Reelfoot Zone: All or portions of Lake and Obion Counties.

State Zone: The remainder of Tennessee.

Wisconsin

North Zone: That portion of the State north of a line extending east from the Minnesota State line along U.S. Highway 10 into Portage County to County Highway HH, east on County Highway HH to State Highway 66 and then east on State Highway 66 to U.S. Highway 10, continuing east on U.S. Highway 10 to U.S. Highway 41, then north on U.S. Highway 41 to the Michigan State line.

South Zone: The remainder of Wisconsin.

Central Flyway

Colorado (Central Flyway Portion)

Eastern Plains Zone: That portion of the State east of Interstate 25, and all of El Paso, Pueblo, Heurfano, and Las Animas Counties.

Mountain/Foothills Zone: That portion of the State west of Interstate 25 and east of the Continental Divide, except El Paso, Pueblo, Heurfano, and Las Animas Counties.

Kansas

High Plains Zone: That portion of the State west of U.S. 283.

Low Plains Early Zone: That area of Kansas east of U.S. 283, and generally west of a line beginning at the Junction of the Nebraska border and KS 28; south on KS 28 to U.S. 36; east on U.S. 36 to KS 199; south on KS 199 to Republic Co. Road 563; south on Republic Co. Road 563 to KS 148; east on KS 148 to Republic Co. Road 138; south on Republic Co. Road 138 to Cloud Co. Road 765; south on Cloud Co. Road 765 to KS 9; west on KS 9 to U.S. 24; west on U.S. 24 to U.S. 281; north on U.S. 281 to U.S. 36; west on U.S. 36 to U.S. 183; south on U.S. 183 to U.S. 24; west on U.S. 24 to KS 18; southeast on KS 18 to U.S. 183; south on U.S. 183 to KS 4; east on KS 4 to I–135; south on I–135 to KS 61; southwest on KS 61 to KS 96; northwest on KS 96 to U.S. 56; southwest on U.S. 56 to KS 19; east on KS 19 to U.S. 281; south on U.S. 281 to U.S. 54; west on U.S. 54 to U.S. 183;

north on U.S. 183 to U.S. 56; southwest on U.S. 56 to Ford Co. Road 126; south on Ford Co. Road 126 to U.S. 400; northwest on U.S. 400 to U.S. 283.

Low Plains Late Zone: The remainder of Kansas.

Montana (Central Flyway Portion)

Zone 1: The Counties of Blaine, Carbon, Carter, Daniels, Dawson, Fallon, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Powder River, Richland, Roosevelt, Sheridan, Stillwater, Sweet Grass, Valley, Wheatland, Wibaux, and Yellowstone.

Zone 2: The remainder of Montana.

Nebraska

High Plains Zone: That portion of Nebraska lying west of a line beginning at the South Dakota-Nebraska border on U.S. 183, south on U.S. 183 to U.S. 20, west on U.S. 20 to NE 7, south on NE 7 to NE 91, southwest on NE 91 to NE 2, southeast on NE 2 to NE 92, west on NE 92 to NE 40, south on NE 40 to NE 47, south on NE 47 to NE 23, east on NE 23 to U.S. 283 and south on U.S. 283 to the Kansas-Nebraska border.

Low Plains Zone 1: That portion of Dixon County west of NE 26E Spur and north of NE 12; those portions of Cedar County north of NE 12; those portions of Knox County north of NE 12 to intersection of Niobrara River; all of Boyd County; Keya Paha County east of U.S. 183. Both banks of the Niobrara River in Keya Paha, Boyd, and Knox Counties east of U.S. 183 shall be included in Zone 1.

Low Plains Zone 2: Area bounded by designated Federal and State highways and political boundaries beginning at the Kansas-Nebraska border on U.S. 75 to U.S. 136; east to the intersection of U.S. 136 and the Steamboat Trace (Trace); north along the Trace to the intersection with Federal Levee R–562; north along Federal Levee R–562 to the intersection with the Trace; north along the Trace/Burlington Northern Railroad right-of-way to NE 2; west to U.S. 75; north to NE 2; west to NE 43; north to U.S. 34; east to NE 63; north and west to U.S. 77; north to NE 92; west to U.S. 81; south to NE 66; west to NE 14; south to County Road 22 (Hamilton County); west to County Road M; south to County Road 21; west to County Road K; south to U.S. 34; west to NE 2; south to U.S. I–80; west to Gunbarrel Road (Hall/Hamilton county line); south to Giltner Road; west to U.S. 281; south to U.S. 34; west to NE 10; north to County Road "R" (Kearney County) and County Road #742 (Phelps County); west to County Road #438 (Gosper County line); south along County Road #438 (Gosper County line) to County Road #726 (Furnas County line); east to County Road #438 (Harlan County line); south to U.S. 34; south and west to U.S. 136; east to NE 14; south to the Kansas-Nebraska border; west to U.S. 283; north to NE 23; west to NE 47; north to U.S. 30; east to NE 14; north to NE 52; west and north to NE 91 to U.S. 281; south to NE 22; west to NE 11; northwest to NE 91; west to Loup County line; north to Loup-Brown County line; east along northern boundaries of Loup, Garfield, and Wheeler Counties; south on the Wheeler-Antelope county line to NE 70; east to NE 14; south to NE 39; southeast to NE 22; east to U.S. 81; southeast to U.S. 30; east to U.S. 75; north to the Washington County line; east to the Iowa-Nebraska border; south along the Iowa-Nebraska border; to the beginning at U.S. 75 and the Kansas-Nebraska border.

Low Plains Zone 3: The area east of the High Plains Zone, excluding Low Plains Zone 1, north of Low Plains Zone 2.

Low Plains Zone 4: The area east of the High Plains Zone and south of Zone 2.

New Mexico (Central Flyway Portion)

North Zone: That portion of the State north of I–40 and U.S. 54.

South Zone: The remainder of New Mexico.

North Dakota

High Plains Unit: That portion of the State south and west of a line from the South Dakota State line along U.S. 83 and I–94 to ND 41, north to U.S. 2, west to the Williams/Divide County line, then north along the County line to the Canadian border.

Low Plains Unit: The remainder of North Dakota.

Oklahoma

High Plains Zone: The Counties of Beaver, Cimarron, and Texas.

Low Plains Zone 1: That portion of the State east of the High Plains Zone and north of a line extending east from the Texas State line along OK 33 to OK 47, east along OK 47 to U.S. 183, south along U.S.183 to I–40, east along I–40 to U.S. 177, north along U.S. 177 to OK 33, east along OK 33 to OK 18, north along OK 18 to OK 51, west along OK 51 to I–35, north along I–35 to U.S. 412, west along U.S. 412 to OK 132, then north along OK 132 to the Kansas State line.

Low Plains Zone 2: The remainder of Oklahoma.

South Dakota

High Plains Zone: That portion of the State west of a line beginning at the North Dakota State line and extending south along U.S. 83 to U.S. 14, east on U.S. 14 to Blunt, south on the Blunt-Canning road to SD 34, east and south on SD 34 to SD 50 at Lee's Corner, south on SD 50 to I–90, east on I–90 to SD 50, south on SD 50 to SD 44, west on SD 44 across the Platte-Winner bridge to SD 47, south on SD 47 to U.S. 18, east on U.S. 18 to SD 47, south on SD 47 to the Nebraska State line.

North Zone: That portion of northeastern South Dakota east of the High Plains Unit and north of a line extending east along U.S. 212 to the Minnesota State line.

South Zone: That portion of Gregory County east of SD 47 and south of SD 44; Charles Mix County south of SD 44 to the Douglas County line; south on SD 50 to Geddes; east on the Geddes Highway to U.S. 281; south on U.S. 281 and U.S. 18 to SD 50; south and east on SD 50 to the Bon Homme County line; the Counties of Bon Homme, Yankton, and Clay south of SD 50; and Union County south and west of SD 50 and I–29.

Middle Zone: The remainder of South Dakota.

Texas

High Plains Zone: That portion of the State west of a line extending south from the Oklahoma State line along U.S. 183 to Vernon, south along U.S. 283 to Albany, south along TX 6 to TX 351 to Abilene, south along U.S. 277 to Del Rio, then south along the Del Rio International Toll Bridge access road to the Mexico border.

Low Plains North Zone: That portion of northeastern Texas east of the High Plains Zone and north of a line beginning at the International Toll Bridge south of Del Rio, then extending east on U.S. 90 to San Antonio, then continuing east on I–10 to the Louisiana State line at Orange, Texas.

Low Plains South Zone: The remainder of Texas.

Wyoming (Central Flyway Portion)

Zone 1: The Counties of Converse, Goshen, Hot Springs, Natrona, Platte, and Washakie; and the portion of Park County east of the Shoshone National Forest boundary and south of a line beginning where the Shoshone National Forest boundary meets Park County Road 8VC, east along Park County Road 8VC to Park County Road 1AB, continuing east along Park County Road 1AB to Wyoming Highway 120, north along WY Highway 120 to WY Highway 294, south along WY Highway 294 to Lane 9, east along Lane 9 to Powel and WY Highway 14A, and finally east along

WY Highway 14A to the Park County and Big Horn County line.

Zone 2: The remainder of Wyoming.

Pacific Flyway

Arizona

Game Management Units (GMU) as follows:

South Zone: Those portions of GMUs 6 and 8 in Yavapai County, and GMUs 10 and 12B–45.

North Zone: GMUs 1–5, those portions of GMUs 6 and 8 within Coconino County, and GMUs 7, 9, 12A.

California

Northeastern Zone: In that portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California–Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane to its junction with Easy Street; south along Easy Street to the junction with Old Highway 99; south along Old Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to Main Street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California–Nevada State line; north along the California–Nevada State line to the junction of the California–Nevada–Oregon State lines; west along the California–Oregon State line to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada State line south along U.S. 95 to Vidal Junction; south on a road known as "Aqueduct Road" in San Bernardino County through the town of Rice to the San Bernardino–Riverside County line; south on a road known in Riverside County as the "Desert Center to Rice Road" to the town of Desert Center; east 31 miles on I–10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army–Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe–Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east 7 miles on U.S. 80 to the Andrade–Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I–15; east on I–15 to CA 127; north on CA 127 to the Nevada State line.

Southern San Joaquin Valley Temporary Zone: All of Kings and Tulare Counties and that portion of Kern County north of the Southern Zone.

Balance-of-the-State Zone: The remainder of California not included in the Northeastern, Southern, and Colorado River Zones, and the Southern San Joaquin Valley Temporary Zone.

Idaho

Zone 1: Includes all lands and waters within the Fort Hall Indian Reservation, including private inholdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; and Power County east of ID 37 and ID 39.

Zone 2: Includes the following Counties or portions of Counties: Adams; Bear Lake; Benewah; Bingham within the Blackfoot Reservoir drainage; Blaine; Bonner; Bonneville; Boundary; Butte; Camas; Caribou except the Fort Hall Indian Reservation; Cassia within the Minidoka National Wildlife Refuge; Clark; Clearwater; Custer; Elmore within the Camas Creek drainage; Franklin; Fremont; Idaho; Jefferson; Kootenai; Latah; Lemhi; Lewis; Madison; Nez Perce; Oneida; Power within the Minidoka National Wildlife Refuge; Shoshone; Teton; and Valley Counties.

Zone 3: Includes the following Counties or portions of Counties: Ada; Boise; Canyon; Cassia except within the Minidoka National Wildlife Refuge; Elmore except the Camas Creek drainage; Gem; Gooding; Jerome; Lincoln; Minidoka; Owyhee; Payette; Power west of ID 37 and ID 39 except that portion within the Minidoka National Wildlife Refuge; Twin Falls; and Washington Counties.

Nevada

Lincoln and Clark County Zone: All of Clark and Lincoln Counties.

Remainder-of-the-State Zone: The remainder of Nevada.

Oregon

Zone 1: Clatsop, Tillamook, Lincoln, Lane, Douglas, Coos, Curry, Josephine, Jackson, Linn, Benton, Polk, Marion, Yamhill, Washington, Columbia, Multnomah, Clackamas, Hood River, Wasco, Sherman, Gilliam, Morrow and Umatilla Counties.

Columbia Basin Mallard Management Unit: Gilliam, Morrow, and Umatilla Counties.

Zone 2: The remainder of the State.

Utah

Zone 1: All of Box Elder, Cache, Daggett, Davis, Duchesne, Morgan, Rich, Salt Lake, Summit, Unitah, Utah, Wasatch, and Weber Counties, and that part of Toole County north of I–80.

Zone 2: The remainder of Utah.

Washington

East Zone: All areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Columbia Basin Mallard Management Unit: Same as East Zone.

West Zone: All areas to the west of the East Zone.

Wyoming

Snake River Zone: Beginning at the south boundary of Yellowstone National Park and the Continental Divide; south along the Continental Divide to Union Pass and the Union Pass Road (U.S.F.S. Road 600); west and south along the Union Pass Road to U.S. F.S. Road 605; south along U.S.F.S. Road 605 to the Bridger-Teton National Forest boundary; along the national forest boundary to the Idaho State line; north along the Idaho State line to the south boundary of Yellowstone National Park; east along the Yellowstone National Park boundary to the Continental Divide.

Balance of Flyway Zone: Balance of the Pacific Flyway in Wyoming outside the Snake River Zone.

Geese

Atlantic Flyway

Connecticut

AP Unit: Litchfield County and the portion of Hartford County west of a line beginning at the Massachusetts border in Suffield and extending south along Route 159 to its intersection with Route 91 in Hartford, and then extending south along Route 91 to its intersection with the Hartford/Middlesex County line.

AFRP Unit: Starting at the intersection of I–95 and the Quinnipiac River, north on the Quinnipiac River to

its intersection with I–91, north on I–91 to I–691, west on I–691 to the Hartford County line, and encompassing the rest of New Haven County and Fairfield County in its entirety.

NAP H-Unit: All of the rest of the State not included in the AP or AFRP descriptions above.

South Zone: Same as for ducks.

North Zone: Same as for ducks.

Maryland

Resident Population (RP) Zone: Garrett, Allegany, Washington, Frederick, and Montgomery Counties; that portion of Prince George's County west of Route 3 and Route 301; that portion of Charles County west of Route 301 to the Virginia State line; and that portion of Carroll County west of Route 31 to the intersection of Route 97, and west of Route 97 to the Pennsylvania line.

AP Zone: Remainder of the State.

Massachusetts

NAP Zone: Central and Coastal Zones (see duck zones).

AP Zone: The Western Zone (see duck zones).

Special Late Season Area: The Central Zone and that portion of the Coastal Zone (see duck zones) that lies north of the Cape Cod Canal, north to the New Hampshire line.

New Hampshire

Same zones as for ducks.

New Jersey

North: That portion of the State within a continuous line that runs east along the New York State boundary line to the Hudson River; then south along the New York State boundary to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with Route 287; then west along Route 287 to its intersection with Route 206 in Bedminster (Exit 18); then north along Route 206 to its intersection with Route 94: then west along Route 94 to the tollbridge in Columbia; then north along the Pennsylvania State boundary in the Delaware River to the beginning point.

South: That portion of the State within a continuous line that runs west from the Atlantic Ocean at Ship Bottom along Route 72 to Route 70; then west along Route 70 to Route 206; then south along Route 206 to Route 536; then west along Route 536 to Route 322; then west along Route 322 to Route 55; then south along Route 55 to Route 553 (Buck Road); then south along Route 553 to Route 40; then east along Route 40 to route 55; then south along Route 55 to Route 552 (Sherman Avenue); then west along Route 552 to Carmel Road; then south along Carmel Road to Route 49; then east along Route 49 to Route 555; then south along Route 555 to Route 553; then east along Route 553 to Route 649; then north along Route 649 to Route 670; then east along Route 670 to Route 47; then north along Route 47 to Route 548; then east along Route 548 to Route 49; then east along Route 49 to Route 50; then south along Route 50 to Route 9; then south along Route 9 to Route 625 (Sea Isle City Boulevard); then east along Route 625 to the Atlantic Ocean; then north to the beginning point.

New York

Lake Champlain Goose Area: The same as the Lake Champlain Waterfowl Hunting Zone, which is that area of New York State lying east and north of a continuous line extending along Route 11 from the New York-Canada International boundary south to Route 9B, south along Route 9B to Route 9, south along Route 9 to Route 22 south of Keeseville, south along Route 22 to the west shore of South Bay along and around the shoreline of South Bay to Route 22 on the east shore of South Bay, southeast along Route 22 to Route 4, northeast along Route 4 to the New York-Vermont boundary.

Northeast Goose Area: The same as the Northeastern Waterfowl Hunting Zone, which is that area of New York State lying north of a continuous line extending from Lake Ontario east along the north shore of the Salmon River to Interstate 81, south along Interstate Route 81 to Route 31, east along Route 31 to Route 13, north along Route 13 to Route 49, east along Route 49 to Route 365, east along Route 365 to Route 28, east along Route 28 to Route 29, east along Route 29 to Interstate Route 87, north along Interstate Route 87 to Route 9 (at Exit 20), north along Route 9 to Route 149, east along Route 149 to Route 4, north along Route 4 to the New York-Vermont boundary, exclusive of the Lake Champlain Zone.

East Central Goose Area: That area of New York State lying inside of a continuous line extending from Interstate Route 81 in Cicero, east along Route 31 to Route 13, north along Route 13 to Route 49, east along Route 49 to Route 365, east along Route 365 to Route 28, east along Route 28 to Route 29, east along Route 29 to Route 147 at Kimball Corners, south along Route 147 to Schenectady County Route 40 (West Glenville Road), west along Route 40 to Touareuna Road, south along Touareuna Road to Schenectady County Route 59, south along Route 59 to State Route 5, east along Route 5 to the Lock 9 bridge, southwest along the Lock 9 bridge to Route 5S, southeast along Route 5S to Schenectady County Route 58, southwest along Route 58 to the NYS Thruway, south along the Thruway to Route 7, southwest along Route 7 to Schenectady County Route 103, south along Route 103 to Route 406, east along Route 406 to Schenectady County Route 99 (Windy Hill Road), south along Route 99 to Dunnsville Road, south along Dunnsville Road to Route 397, southwest along Route 397 to Route 146 at Altamont, west along Route 146 to Albany County Route 252, northwest along Route 252 to Schenectady County Route 131, north along Route 131 to Route 7, west along Route 7 to Route 10 at Richmondville, south on Route 10 to Route 23 at Stamford, west along Route 23 to Route 7 in Oneonta, southwest along Route 7 to Route 79 to Interstate Route 88 near Harpursville, west along Route 88 to Interstate Route 81, north along Route 81 to the point of beginning.

West Central Goose Area: That area of New York State lying within a continuous line beginning at the point where the northerly extension of Route 269 (County Line Road on the Niagara-Orleans County boundary) meets the International boundary with Canada, south to the shore of Lake Ontario at the eastern boundary of Golden Hill State Park, south along the extension of Route 269 and Route 269 to Route 104 at Jeddo, west along Route 104 to Niagara County Route 271, south along Route 271 to Route 31E at Middleport, south along Route 31E to Route 31, west along Route 31 to Griswold Street, south along Griswold Street to Ditch Road, south along Ditch Road to Foot Road, south along Foot Road to the north bank of Tonawanda Creek, west along the north bank of Tonawanda Creek to Route 93, south along Route 93 to Route 5, east along Route 5 to Crittenden-Murrays Corners Road, south on Crittenden-Murrays Corners Road to the NYS Thruway, east along the Thruway 90 to Route 98 (at Thruway Exit 48) in Batavia, south along Route 98 to Route 20, east along Route 20 to Route 19 in Pavilion Center, south along Route 19 to Route 63, southeast along Route 63 to Route 246, south along Route 246 to Route 39 in Perry, northeast along Route 39 to Route 20A, northeast along Route 20A to Route 20, east along Route 20 to Route 364 (near Canandaigua), south and east along Route 364 to Yates County Route 18 (Italy Valley Road), southwest along Route 18 to Yates County Route 34, east along Route 34 to Yates County Route 32, south along Route 32 to Steuben County Route 122,

south along Route 122 to Route 53, south along Route 53 to Steuben County Route 74, east along Route 74 to Route 54A (near Pulteney), south along Route 54A to Steuben County Route 87, east along Route 87 to Steuben County Route 96, east along Route 96 to Steuben County Route 114, east along Route 114 to Schuyler County Route 23, east and southeast along Route 23 to Schuyler County Route 28, southeast along Route 28 to Route 409 at Watkins Glen, south along Route 409 to Route 14, south along Route 14 to Route 224 at Montour Falls, east along Route 224 to Route 228 in Odessa, north along Route 228 to Route 79 in Mecklenburg, east along Route 79 to Route 366 in Ithaca, northeast along Route 366 to Route 13, northeast along Route 13 to Interstate Route 81 in Cortland, north along Route 81 to the north shore of the Salmon River to shore of Lake Ontario, extending generally northwest in a straight line to the nearest point of the International boundary with Canada, south and west along the International boundary to the point of beginning.

Hudson Valley Goose Area: That area of New York State lying within a continuous line extending from Route 4 at the New York–Vermont boundary, west and south along Route 4 to Route 149 at Fort Ann, west on Route 149 to Route 9, south along Route 9 to Interstate Route 87 (at Exit 20 in Glens Falls), south along Route 87 to Route 29, west along Route 29 to Route 147 at Kimball Corners, south along Route 147 to Schenectady County Route 40 (West Glenville Road), west along Route 40 to Touareuna Road, south along Touareuna Road to Schenectady County Route 59, south along Route 59 to State Route 5, east along Route 5 to the Lock 9 bridge, southwest along the Lock 9 bridge to Route 5S, southeast along Route 5S to Schenectady County Route 58, southwest along Route 58 to the NYS Thruway, south along the Thruway to Route 7, southwest along Route 7 to Schenectady County Route 103, south along Route 103 to Route 406, east along Route 406 to Schenectady County Route 99 (Windy Hill Road), south along Route 99 to Dunnsville Road, south along Dunnsville Road to Route 397, southwest along Route 397 to Route 146 at Altamont, southeast along Route 146 to Main Street in Altamont, west along Main Street to Route 156, southeast along Route 156 to Albany County Route 307, southeast along Route 307 to Route 85A, southwest along Route 85A to Route 85, south along Route 85 to Route 443, southeast along Route 443 to Albany County Route 301 at Clarksville, southeast along Route 301 to Route 32, south along Route 32 to Route 23 at Cairo, west along Route 23 to Joseph Chadderdon Road, southeast along Joseph Chadderdon Road to Hearts Content Road (Greene County Route 31), southeast along Route 31 to Route 32, south along Route 32 to Greene County Route 23A, east along Route 23A to Interstate Route 87 (the NYS Thruway), south along Route 87 to Route 28 (Exit 19) near Kingston, northwest on Route 28 to Route 209, southwest on Route 209 to the New York–Pennsylvania boundary, southeast along the New York–Pennsylvania boundary to the New York–New Jersey boundary, southeast along the New York–New Jersey boundary to Route 210 near Greenwood Lake, northeast along Route 210 to Orange County Route 5, northeast along Orange County Route 5 to Route 105 in the Village of Monroe, east and north along Route 105 to Route 32, northeast along Route 32 to Orange County Route 107 (Quaker Avenue), east along Route 107 to Route 9W, north along Route 9W to the south bank of Moodna Creek, southeast along the south bank of Moodna Creek to the New Windsor–Cornwall town boundary, northeast along the New Windsor-Cornwall town boundary to the Orange–Dutchess County boundary (middle of the Hudson River), north along the county boundary to Interstate Route 84, east along Route 84 to the Dutchess–Putnam County boundary, east along the county boundary to the New York-Connecticut boundary, north along the New York–Connecticut boundary to the New York–Massachusetts boundary, north along the New York–Massachusetts boundary to the New York–Vermont boundary, north to the point of beginning.

Eastern Long Island Goose Area (NAP High Harvest Area): That area of Suffolk County lying east of a continuous line extending due south from the New York-Connecticut boundary to the northernmost end of Roanoke Avenue in the Town of Riverhead; then south on Roanoke Avenue (which becomes County Route 73) to State Route 25; then west on Route 25 to Peconic Avenue; then south on Peconic Avenue to County Route (CR) 104 (Riverleigh Avenue); then south on CR 104 to CR 31 (Old Riverhead Road); then south on CR 31 to Oak Street; then south on Oak Street to Potunk Lane; then west on Stevens Lane; then south on Jessup Avenue (in Westhampton Beach) to Dune Road (CR 89); then due south to international waters.

Western Long Island Goose Area (RP Area): That area of Westchester County and its tidal waters southeast of Interstate Route 95 and that area of Nassau and Suffolk Counties lying west of a continuous line extending due south from the New York–Connecticut boundary to the northernmost end of the Sunken Meadow State Parkway; then south on the Sunken Meadow Parkway to the Sagtikos State Parkway; then south on the Sagtikos Parkway to the Robert Moses State Parkway; then south on the Robert Moses Parkway to its southernmost end; then due south to international waters.

Central Long Island Goose Area (NAP Low Harvest Area): That area of Suffolk County lying between the Western and Eastern Long Island Goose Areas, as defined above.

South Goose Area: The remainder of New York State, excluding New York City.

Special Late Canada Goose Area: That area of the Central Long Island Goose Area lying north of State Route 25A and west of a continuous line extending northward from State Route 25A along Randall Road (near Shoreham) to North Country Road, then east to Sound Road and then north to Long Island Sound and then due north to the New York-Connecticut boundary.

North Carolina

SJBP Hunt Zone: Includes the following Counties or portions of Counties: Anson, Cabarrus, Chatham, Davidson, Durham, Halifax (that portion east of NC 903), Montgomery (that portion west of NC 109), Northampton, Richmond (that portion south of NC 73 and west of US 220 and north of US 74), Rowan, Stanly, Union, and Wake.

RP Hunt Zone: Includes the following Counties or portions of Counties: Alamance, Alleghany, Alexander, Ashe, Avery, Beaufort, Bertie (that portion south and west of a line formed by NC 45 at the Washington Co. line to U.S. 17 in Midway, U.S. 17 in Midway to U.S.13 in Windsor, U.S. 13 in Windsor to the Hertford Co. line), Bladen, Brunswick, Buncombe, Burke, Caldwell, Carteret, Caswell, Catawba, Cherokee, Clay, Cleveland, Columbus, Craven, Cumberland, Davie, Duplin, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, Granville, Greene, Guilford, Halifax (that portion west of NC 903), Harnett, Haywood, Henderson, Hertford, Hoke, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, McDowell, Macon, Madison, Martin, Mecklenburg, Mitchell, Montgomery (that portion that is east of NC 109), Moore, Nash, New Hanover, Onslow, Orange, Pamlico, Pender, Person, Pitt, Polk, Randolph, Richmond (all of the county with exception of that portion that is south of NC 73 and west of U.S. 220 and north of U.S. 74), Robeson, Rockingham,

Rutherford, Sampson, Scotland, Stokes, Surry, Swain, Transylvania, Vance, Warren, Watauga, Wayne, Wilkes, Wilson, Yadkin, and Yancey.

Northeast Hunt Unit: Includes the following Counties or portions of Counties: Bertie (that portion north and east of a line formed by NC 45 at the Washington County line to U.S. 17 in Midway, U.S. 17 in Midway to U.S. 13 in Windsor, U.S. 13 in Windsor to the Hertford Co. line), Camden, Chowan, Currituck, Dare, Hyde, Pasquotank, Perquimans, Tyrrell, and Washington.

Pennsylvania

Resident Canada Goose Zone: All of Pennsylvania except for SJBP Zone and the area east of route SR 97 from the Maryland State Line to the intersection of SR 194, east of SR 194 to intersection of U.S. Route 30, south of U.S. Route 30 to SR 441, east of SR 441 to SR 743, east of SR 743 to intersection of I–81, east of I–81 to intersection of I–80, and south of I–80 to the New Jersey State line.

SJBP Zone: The area north of I–80 and west of I–79 including in the city of Erie west of Bay Front Parkway to and including the Lake Erie Duck zone (Lake Erie, Presque Isle, and the area within 150 yards of the Lake Erie Shoreline).

AP Zone: The area east of route SR 97 from Maryland State Line to the intersection of SR 194, east of SR 194 to intersection of U.S. Route 30, south of U.S. Route 30 to SR 441, east of SR 441 to SR 743, east of SR 743 to intersection of I–81, east of I–81 to intersection of I–80, south of I–80 to New Jersey State line.

Rhode Island

Special Area for Canada Geese: Kent and Providence Counties and portions of the towns of Exeter and North Kingston within Washington County (see State regulations for detailed descriptions).

South Carolina

Canada Goose Area: Statewide except for Clarendon County, that portion of Orangeburg County north of SC Highway 6, and that portion of Berkeley County north of SC Highway 45 from the Orangeburg County line to the junction of SC Highway 45 and State Road S–8–31 and that portion west of the Santee Dam.

Vermont

Same zones as for ducks.

Virginia

AP Zone: The area east and south of the following line—the Stafford County line from the Potomac River west to Interstate 95 at Fredericksburg, then south along Interstate 95 to Petersburg, then Route 460 (SE) to City of Suffolk, then south along Route 32 to the North Carolina line.

SJBP Zone: The area to the west of the AP Zone boundary and east of the following line: the "Blue Ridge" (mountain spine) at the West Virginia–Virginia Border (Loudoun County–Clarke County line) south to Interstate 64 (the Blue Ridge line follows county borders along the western edge of Loudoun–Fauquier–Rappahannock–Madison–Greene–Albemarle and into Nelson Counties), then east along Interstate Rt. 64 to Route 15, then south along Rt. 15 to the North Carolina line.

RP Zone: The remainder of the State west of the SJBP Zone.

West Virginia

Same zones as for ducks.

Mississippi Flyway

Alabama

Same zones as for ducks, but in addition:

SJBP Zone: That portion of Morgan County east of U.S. Highway 31, north of State Highway 36, and west of U.S. 231; that portion of Limestone County south of U.S. 72; and that portion of Madison County south of Swancott Road and west of Triana Road.

Arkansas

Northwest Zone: Baxter, Benton, Boone, Carroll, Conway, Crawford, Faulkner, Franklin, Johnson, Logan, Madison, Marion, Newton, Perry, Pope, Pulaski, Searcy, Sebastian, Scott, Van Buren, Washington, and Yell Counties.

Illinois

Same zones as for ducks.

Indiana

Same zones as for ducks but in addition:

Special Canada Goose Seasons Indiana Late Canada Goose Season Zone: That part of the State encompassed by the following Counties: Steuben, Lagrange, Elkhart, St. Joseph, La Porte, Starke, Marshall, Kosciusko, Noble, De Kalb, Allen, Whitley, Huntington, Wells, Adams, Boone, Hamilton, Madison, Hendricks, Marion, Hancock, Morgan, Johnson, Shelby, Vermillion, Parke, Vigo, Clay, Sullivan, and Greene.

Iowa

Same zones as for ducks.

Kentucky

Western Zone: That portion of the State west of a line beginning at the Tennessee State line at Fulton and extending north along the Purchase Parkway to Interstate Highway 24, east along I–24 to U.S. Highway 641, north along U.S. 641 to U.S. 60, northeast along U.S. 60 to the Henderson County line, then south, east, and northerly along the Henderson County line to the Indiana State line.

Ballard Reporting Area: That area encompassed by a line beginning at the northwest city limits of Wickliffe in Ballard County and extending westward to the middle of the Mississippi River, north along the Mississippi River and along the low-water mark of the Ohio River on the Illinois shore to the Ballard-McCracken County line, south along the county line to Kentucky Highway 358, south along Kentucky 358 to U.S. Highway 60 at LaCenter, then southwest along U.S. 60 to the northeast city limits of Wickliffe.

Henderson-Union Reporting Area: Henderson County and that portion of Union County within the Western Zone.

Pennyroyal/Coalfield Zone: Butler, Daviess, Ohio, Simpson, and Warren Counties and all counties lying west to the boundary of the Western Goose Zone.

Michigan

(a) North Zone—Same as North duck zone.

(b) Middle Zone—Same as Middle duck zone.

(c) South Zone—Same as South duck zone.

Tuscola/Huron Goose Management Unit (GMU): Those portions of Tuscola and Huron Counties bounded on the south by Michigan Highway 138 and Bay City Road, on the east by Colwood and Bay Port Roads, on the north by Kilmanagh Road and a line extending directly west off the end of Kilmanagh Road into Saginaw Bay to the west boundary, and on the west by the Tuscola-Bay County line and a line extending directly north off the end of the Tuscola-Bay County line into Saginaw Bay to the north boundary.

Allegan County GMU: That area encompassed by a line beginning at the junction of 136th Avenue and Interstate Highway 196 in Lake Town Township and extending easterly along 136th Avenue to Michigan Highway 40, southerly along Michigan 40 through the city of Allegan to 108th Avenue in Trowbridge Township, westerly along 108th Avenue to 46th Street, northerly along 46th Street to 109th Avenue, westerly along 109th Avenue to I–196 in Casco Township, then northerly along I–196 to the point of beginning.

Saginaw County GMU: That portion of Saginaw County bounded by Michigan Highway 46 on the north;

Michigan 52 on the west; Michigan 57 on the south; and Michigan 13 on the east.

Muskegon Wastewater GMU: That portion of Muskegon County within the boundaries of the Muskegon County wastewater system, east of the Muskegon State Game Area, in sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, and 32, T10N R14W, and sections 1, 2, 10, 11, 12, 13, 14, 24, and 25, T10N R15W, as posted.

Special Canada Goose Seasons: Southern Michigan Late Season Canada Goose Zone: Same as the South Duck Zone excluding Tuscola/Huron Goose Management Unit (GMU), Allegan County GMU, Saginaw County GMU, and Muskegon Wastewater GMU.

Minnesota

Rochester Goose Zone: That part of the State within the following described boundary: Beginning at the intersection of State Trunk Highway (STH) 247 and County State Aid Highway (CSAH) 4, Wabasha County; thence along CSAH 4 to CSAH 10, Olmsted County; thence along CSAH 10 to CSAH 9, Olmsted County; thence along CSAH 9 to CSAH 22, Winona County; thence along CSAH 22 to STH 74; thence along STH 74 to STH 30; thence along STH 30 to CSAH 13, Dodge County; thence along CSAH 13 to U.S. Highway 14; thence along U.S. Highway 14 to STH 57; thence along STH 57 to CSAH 24, Dodge County; thence along CSAH 24 to CSAH 13, Olmsted County; thence along CSAH 13 to U.S. Highway 52; thence along U.S. Highway 52 to CSAH 12, Olmsted County; thence along CSAH 12 to STH 247; thence along STH 247 to the point of beginning.

Missouri

Same zones as for ducks.

Ohio

Same zones as for ducks but in addition:

North Zone

Lake Erie Zone: That portion of the North Duck Zone encompassed by and north and east of a line beginning in Lucas County at the Michigan State line on I–75, and extending south along I–75 to I–280, south along I–280 to I–80, and east along I– 80 to the Pennsylvania State line in Trumbull County.

Tennessee

Southwest Zone: That portion of the State south of State Highways 20 and 104, and west of U.S. Highways 45 and 45W.

Northwest Zone: Lake, Obion, and Weakley Counties and those portions of Gibson and Dyer Counties not included in the Southwest Tennessee Zone.

Kentucky/Barkley Lakes Zone: That portion of the State bounded on the west by the eastern boundaries of the Northwest and Southwest Zones and on the east by State Highway 13 from the Alabama State line to Clarksville and U.S. Highway 79 from Clarksville to the Kentucky State line.

Wisconsin

Same zones as for ducks but in addition:

Horicon Zone: That area encompassed by a line beginning at the intersection of State Highway 21 and the Fox River in Winnebago County and extending westerly along State 21 to the west boundary of Winnebago County, southerly along the west boundary of Winnebago County to the north boundary of Green Lake County, westerly along the north boundaries of Green Lake and Marquette Counties to State 22, southerly along State 22 to State 33, westerly along State 33 to Interstate Highway 39, southerly along Interstate Highway 39 to Interstate Highway 90/94, southerly along I–90/94 to State 60, easterly along State 60 to State 83, northerly along State 83 to State 175, northerly along State 175 to State 33, easterly along State 33 to U.S. Highway 45, northerly along U.S. 45 to the east shore of the Fond Du Lac River, northerly along the east shore of the Fond Du Lac River to Lake Winnebago, northerly along the western shoreline of Lake Winnebago to the Fox River, then westerly along the Fox River to State 21.

Collins Zone: That area encompassed by a line beginning at the intersection of Hilltop Road and Collins Marsh Road in Manitowoc County and extending westerly along Hilltop Road to Humpty Dumpty Road, southerly along Humpty Dumpty Road to Poplar Grove Road, easterly along Poplar Grove Road to Rockea Road, southerly along Rockea Road to County Highway JJ, southeasterly along County JJ to Collins Road, southerly along Collins Road to the Manitowoc River, southeasterly along the Manitowoc River to Quarry Road, northerly along Quarry Road to Einberger Road, northerly along Einberger Road to Moschel Road, westerly along Moschel Road to Collins Marsh Road, northerly along Collins Marsh Road to Hilltop Road.

Exterior Zone: That portion of the State not included in the Horicon or Collins Zones.

Mississippi River Subzone: That area encompassed by a line beginning at the intersection of the Burlington Northern & Santa Fe Railway and the Illinois State line in Grant County and extending northerly along the Burlington Northern & Santa Fe Railway to the city limit of Prescott in Pierce County, then west along the Prescott city limit to the Minnesota State line.

Brown County Subzone: That area encompassed by a line beginning at the intersection of the Fox River with Green Bay in Brown County and extending southerly along the Fox River to State Highway 29, northwesterly along State 29 to the Brown County line, south, east, and north along the Brown County line to Green Bay, due west to the midpoint of the Green Bay Ship Channel, then southwesterly along the Green Bay Ship Channel to the Fox River.

Central Flyway

Colorado (Central Flyway Portion)

Northern Front Range Area: All areas in Boulder, Larimer and Weld Counties from the Continental Divide east along the Wyoming border to U.S. 85, south on U.S. 85 to the Adams County line, and all lands in Adams, Arapahoe, Broomfield, Clear Creek, Denver, Douglas, Gilpin, and Jefferson Counties.

North Park Area: Jackson County.

South Park and San Luis Valley Area: All of Alamosa, Chaffee, Conejos, Costilla, Custer, Fremont, Lake, Park, Rio Grande and Teller Counties, and those portions of Saguache, Mineral and Hinsdale Counties east of the Continental Divide.

Remainder: Remainder of the Central Flyway portion of Colorado.

Eastern Colorado Late Light Goose Area: That portion of the State east of Interstate Highway 25.

Nebraska

Dark Geese

Niobrara Unit: That area contained within and bounded by the intersection of the South Dakota State line and the Cherry County line, south along the Cherry County line to the Niobrara River, east to the Norden Road, south on the Norden Road to U.S. Hwy 20, east along U.S. Hwy 20 to NE Hwy 137, north along NE Hwy 137 to the Niobrara River, east along the Niobrara River to the Boyd County line, north along the Boyd County line to the South Dakota State line. Where the Niobrara River forms the boundary, both banks of the river are included in the Niobrara Unit.

East Unit: That area north and east of U.S. 281 at the Kansas–Nebraska State line, north to Giltner Road (near Doniphan), east to NE 14, north to NE 66, east to U.S. 81, north to NE 22, west to NE 14 north to NE 91, east to U.S. 275, south to U.S. 77, south to NE 91,

east to U.S. 30, east to Nebraska–Iowa State line.

Platte River Unit: That area south and west of U.S. 281 at the Kansas—Nebraska State line, north to Giltner Road (near Doniphan), east to NE 14, north to NE 66, east to U.S. 81, north to NE 22, west to NE 14, north to NE 91, west along NE 91 to NE 11, north to the Holt County line, west along the northern border of Garfield, Loup, Blaine and Thomas Counties to the Hooker County line, south along the Thomas-Hooker County lines to the McPherson County line, east along the south border of Thomas County to the western line of Custer County, south along the Custer-Logan County line to NE 92, west to U.S. 83, north to NE 92, west to NE 61, north along NE 61 to NE 2, west along NE 2 to the corner formed by Garden-Grant-Sheridan Counties, west along the north border of Garden, Morrill, and Scotts Bluff Counties to the intersection of the Interstate Canal, west to Wyoming State line.

North-Central Unit: The remainder of the State.

Light Geese

Rainwater Basin Light Goose Area (West): The area bounded by the junction of U.S. 283 and U.S. 30 at Lexington, east on U.S. 30 to U.S. 281, south on U.S. 281 to NE 4, west on NE 4 to U.S. 34, continue west on U.S. 34 to U.S. 283, then north on U.S. 283 to the beginning.

Rainwater Basin Light Goose Area (East): The area bounded by the junction of U.S. 281 and U.S. 30 at Grand Island, north and east on U.S. 30 to NE 14, south to NE 66, east to U.S. 81, north to NE 92, east on NE 92 to NE 15, south on NE 15 to NE 4, west on NE 4 to U.S. 281, north on U.S. 281 to the beginning.

Remainder of State: The remainder portion of Nebraska.

New Mexico (Central Flyway Portion)

Dark Geese

Middle Rio Grande Valley Unit: Sierra, Socorro, and Valencia Counties.

Remainder: The remainder of the Central Flyway portion of New Mexico.

North Dakota

Missouri River Canada Goose Zone: The area within and bounded by a line starting where ND Hwy 6 crosses the South Dakota border; thence north on ND Hwy 6 to I–94; thence west on I–94 to ND Hwy 49; thence north on ND Hwy 49 to ND Hwy 200; thence north on Mercer County Rd. 21 to the section line between sections 8 and 9 (T146N–R87W); thence north on that section line to the southern shoreline to Lake Sakakawea; thence east along the southern shoreline (including Mallard Island) of Lake Sakakawea to U.S. Hwy 83; thence south on U.S. Hwy 83 to ND Hwy 200; thence east on ND Hwy 200 to ND Hwy 41; thence south on ND Hwy 41 to U.S. Hwy 83; thence south on U.S. Hwy 83 to I–94; thence east on I–94 to U.S. Hwy 83; thence south on U.S. Hwy 83 to the South Dakota border; thence west along the South Dakota border to ND Hwy 6.

Rest of State: Remainder of North Dakota.

South Dakota

Canada Geese

Unit 1: Remainder of South Dakota.

Unit 2: Bon Homme, Brule, Buffalo, Charles Mix, Custer east of SD Hwy 79 and south of French Creek, Dewey south of U.S. Hwy 212, Fall River east of SD Hwy 71 and U.S. Hwy 385, Gregory, Hughes, Hyde south of U.S. Hwy 14, Lyman, Perkins, Potter west of U.S. Hwy 83, Stanley, and Sully Counties.

Unit 3: Bennett County.

Texas

Northeast Goose Zone: That portion of Texas lying east and north of a line beginning at the Texas-Oklahoma border at U.S. 81, then continuing south to Bowie and then southeasterly along U.S. 81 and U.S. 287 to I–35W and I–35 to the juncture with I–10 in San Antonio, then east on I–10 to the Texas–Louisiana border.

Southeast Goose Zone: That portion of Texas lying east and south of a line beginning at the International Toll Bridge at Laredo, then continuing north following I–35 to the juncture with I–10 in San Antonio, then easterly along I–10 to the Texas–Louisiana border.

West Goose Zone: The remainder of the State.

Wyoming (Central Flyway Portion)

Dark Geese

Area 1: Converse, Hot Springs, Natrona, and Washakie Counties, and the portion of Park County east of the Shoshone National Forest boundary and south of a line beginning where the Shoshone National Forest boundary crosses Park County Road 8VC, easterly along said road to Park County Road 1AB, easterly along said road to Wyoming Highway 120, northerly along said highway to Wyoming Highway 294, southeasterly along said highway to Lane 9, easterly along said lane to the town of Powel and Wyoming Highway 14A, easterly along said highway to the Park County and Big Horn County Line.

Area 2: Albany, Campbell, Crook, Johnson, Laramie, Niobrara, Sheridan, and Weston Counties, and that portion of Carbon County east of the Continental Divide; that portion of Park County west of the Shoshone National Forest boundary, and that portion of Park County north of a line beginning where the Shoshone National Forest boundary crosses Park County Road 8VC, easterly along said road to Park County Road 1AB, easterly along said road to Wyoming Highway 120, northerly along said highway to Wyoming Highway 294, southeasterly along said highway to Lane 9, easterly along said lane to the town of Powel and Wyoming Highway 14A, easterly along said highway to the Park County and Big Horn County Line.

Area 3: Goshen and Platte Counties.

Area 4: Big Horn and Fremont Counties.

Pacific Flyway

Arizona

North Zone: Game Management Units 1–5, those portions of Game Management Units 6 and 8 within Coconino County, and Game Management Units 7, 9, and 12A.

South Zone: Those portions of Game Management Units 6 and 8 in Yavapai County, and Game Management Units 10 and 12B–45.

California

Northeastern Zone: In that portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California-Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane to its junction with Easy Street; south along Easy Street to the junction with Old Highway 99; south along Old Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to main street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California-Nevada State line; north along the California-Nevada State line to the junction of the California-Nevada-Oregon State lines west along the California-Oregon State line to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and

Imperial Counties east of a line extending from the Nevada border south along U.S. 95 to Vidal Junction; south on a road known as "Aqueduct Road" in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south on a road known in Riverside County as the "Desert Center to Rice Road" to the town of Desert Center; east 31 miles on I–10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east 7 miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I–15; east on I–15 to CA 127; north on CA 127 to the Nevada border.

Imperial County Special Management Area: The area bounded by a line beginning at Highway 86 and the Navy Test Base Road; south on Highway 86 to the town of Westmoreland; continue through the town of Westmoreland to Route S26; east on Route S26 to Highway 115; north on Highway 115 to Weist Rd.; north on Weist Rd. to Flowing Wells Rd.; northeast on Flowing Wells Rd. to the Coachella Canal; northwest on the Coachella Canal to Drop 18; a straight line from Drop 18 to Frink Rd.; south on Frink Rd. to Highway 111; north on Highway 111 to Niland Marina Rd.; southwest on Niland Marina Rd. to the old Imperial County boat ramp and the water line of the Salton Sea; from the water line of the Salton Sea, a straight line across the Salton Sea to the Salinity Control Research Facility and the Navy Test Base Road; southwest on the Navy Test Base Road to the point of beginning.

Balance-of-the-State Zone: The remainder of California not included in the Northeastern, Southern, and the Colorado River Zones.

North Coast Special Management Area: The Counties of Del Norte and Humboldt.

Sacramento Valley Special Management Area: That area bounded by a line beginning at Willows south on I–5 to Hahn Road; easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes; northerly on CA 45 to the junction with CA 162; northerly on CA 45/162 to Glenn; and westerly on CA 162 to the point of beginning in Willows.

Colorado (Pacific Flyway Portion)

West Central Area: Archuleta, Delta, Dolores, Gunnison, LaPlata, Montezuma, Montrose, Ouray, San Juan, and San Miguel Counties and those portions of Hinsdale, Mineral, and Saguache Counties west of the Continental Divide.

State Area: The remainder of the Pacific-Flyway Portion of Colorado.

Idaho

Zone 1: Adams, Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone, and Valley Counties.

Zone 2: The Counties of Ada; Boise; Canyon; those portions of Elmore north and east of I–84, and south and west of I–84, west of ID 51, except the Camas Creek drainage; Gem; Owyhee west of ID 51; Payette; and Washington.

Zone 3: The Counties of Cassia except the Minidoka National Wildlife Refuge; those portions of Elmore south of I–84 east of ID 51, and within the Camas Creek drainage; Gooding; Jerome; Lincoln; Minidoka; Owyhee east of ID 51; and Twin Falls.

Zone 4: The Counties of Bear Lake; Bingham within the Blackfoot Reservoir drainage; Blaine; Bonneville, Butte; Camas; Caribou except the Fort Hall Indian Reservation; Cassia within the Minidoka National Wildlife Refuge; Clark; Custer; Franklin; Fremont; Jefferson; Lemhi; Madison; Oneida; and Teton.

Zone 5: All lands and waters within the Fort Hall Indian Reservation, including private inholdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; and Power County.

Montana (Pacific Flyway Portion)

East of the Divide Zone: The Pacific Flyway portion of the State located east of the Continental Divide.

West of the Divide Zone: The remainder of the Pacific Flyway portion of Montana.

Nevada

Lincoln Clark County Zone: All of Lincoln and Clark Counties.

Remainder-of-the-State Zone: The remainder of Nevada.

New Mexico (Pacific Flyway Portion)

North Zone: The Pacific Flyway portion of New Mexico located north of I–40.

South Zone: The Pacific Flyway portion of New Mexico located south of I–40.

Oregon

Southwest Zone: Those portions of Douglas, Coos, and Curry Counties east of Highway 101, and Josephine and Jackson Counties.

South Coast Zone: Those portions of Douglas, Coos, and Curry Counties west of Highway 101.

Northwest Special Permit Zone: That portion of western Oregon west and north of a line running south from the Columbia River in Portland along I–5 to OR 22 at Salem; then east on OR 22 to the Stayton Cutoff; then south on the Stayton Cutoff to Stayton and due south to the Santiam River; then west along the north shore of the Santiam River to I–5; then south on I–5 to OR 126 at Eugene; then west on OR 126 to Greenhill Road; then south on Greenhill Road to Crow Road; then west on Crow Road to Territorial Hwy; then west on Territorial Hwy to OR 126; then west on OR 126 to Milepost 19; then north to the intersection of the Benton and Lincoln County line; then north along the western boundary of Benton and Polk Counties to the southern boundary of Tillamook County; then west along the Tillamook County boundary to the Pacific Coast.

Lower Columbia/N. Willamette Valley Management Area: Those portions of Clatsop, Columbia, Multnomah, and Washington Counties within the Northwest Special Permit Zone.

Tillamook County Management Area: All of Tillamook County is open to goose hunting except for the following area—beginning in Cloverdale at Hwy 101, west on Old Woods Rd to Sand Lake Rd at Woods, north on Sand Lake Rd to the intersection with McPhillips Dr, due west (~200 yards) from the intersection to the Pacific coastline, south on the Pacific coastline to Neskowin Creek, east along the north shores of Neskowin Creeks and then Hawk Creek to Salem Ave, east on Salem Ave in Neskowin to Hawk Ave, east on Hawk Ave to Hwy 101, north on Hwy 101 at Cloverdale, to the point of beginning.

Northwest Zone: Those portions of Clackamas, Lane, Linn, Marion, Multnomah, and Washington Counties outside of the Northwest Special Permit Zone and all of Lincoln County.

Eastern Zone: Hood River, Wasco, Sherman, Gilliam, Morrow, Umatilla,

Deschutes, Jefferson, Crook, Wheeler, Grant, Baker, Union, and Wallowa Counties.

Harney and Lake County Zone: All of Harney and Lake Counties.

Klamath County Zone: All of Klamath County.

Malheur County Zone: All of Malheur County.

Utah

Northern Utah Zone: All of Cache and Rich Counties, and that portion of Box Elder County beginning at I–15 and the Weber-Box Elder County line; east and north along this line to the Weber-Cache County line; east along this line to the Cache-Rich County line; east and south along the Rich County line to the Utah-Wyoming State line; north along this line to the Utah-Idaho State line; west on this line to Stone, Idaho-Snowville, Utah road; southwest on this road to Locomotive Springs Wildlife Management Area; east on the county road, past Monument Point and across Salt Wells Flat, to the intersection with Promontory Road; south on Promontory Road to a point directly west of the northwest corner of the Bear River Migratory Bird Refuge boundary; east along an imaginary line to the northwest corner of the Refuge boundary; south and east along the Refuge boundary to the southeast corner of the boundary; northeast along the boundary to the Perry access road; east on the Perry access road to I–15; south on I–15 to the Weber-Box Elder County line.

Remainder-of-the-State Zone: The remainder of Utah.

Washington

Area 1: Skagit, Island, and Snohomish Counties.

Area 2A (SW Quota Zone): Clark County, except portions south of the Washougal River; Cowlitz County; and Wahkiakum County.

Area 2B (SW Quota Zone): Pacific County.

Area 3: All areas west of the Pacific Crest Trail and west of the Big White Salmon River that are not included in Areas 1, 2A, and 2B.

Area 4: Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla Counties.

Area 5: All areas east of the Pacific Crest Trail and east of the Big White Salmon River that are not included in Area 4.

Brant

Pacific Flyway

California

North Coast Zone: Del Norte, Humboldt and Mendocino Counties.

South Coast Zone: Balance of the State.

Washington

Puget Sound Zone: Skagit County.

Coastal Zone: Pacific County.

Swans

Central Flyway

South Dakota

Aurora, Beadle, Brookings, Brown, Brule, Buffalo, Campbell, Clark, Codington, Davison, Deuel, Day, Edmunds, Faulk, Grant, Hamlin, Hand, Hanson, Hughes, Hyde, Jerauld, Kingsbury, Lake, Marshall, McCook, McPherson, Miner, Minnehaha, Moody, Potter, Roberts, Sanborn, Spink, Sully, and Walworth Counties.

Pacific Flyway

Montana

(Pacific Flyway Portion)

Open Area: Cascade, Chouteau, Hill, Liberty, and Toole Counties and those portions of Pondera and Teton Counties lying east of U.S. 287–89.

Nevada

Open Area: Churchill, Lyon, and Pershing Counties.

Utah

Open Area: Those portions of Box Elder, Weber, Davis, Salt Lake, and Toole Counties lying west of I–15, north of I–80, and south of a line beginning from the Forest Street exit to the Bear River National Wildlife Refuge boundary; then north and west along the Bear River National Wildlife Refuge boundary to the farthest west boundary of the Refuge; then west along a line to Promontory Road; then north on Promontory Road to the intersection of SR 83; then north on SR 83 to I–84; then north and west on I–84 to State Hwy 30; then west on State Hwy 30 to the Nevada-Utah State line; then south on the Nevada-Utah State line to I–80.

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Federal Register

Wednesday,
August 25, 2010

Part III

Department of Health and Human Services

Food and Drug Administration

Guidance for Industry; Section 4205 of the Patient Protection and Affordable Care Act of 2010; Availability; Notices

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–D–0370]

Draft Guidance for Industry: Questions and Answers Regarding Implementation of the Menu Labeling Provisions of Section 4205 of the Patient Protection and Affordable Care Act of 2010; 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 "Guidance for Industry: Questions and Answers Regarding Implementation of the Menu Labeling Provisions of Section 4205 of the Patient Protection and Affordable Care Act of 2010." Section 4205 of the Patient Protection and Affordable Care Act (Affordable Care Act) requires certain chain restaurants and similar retail food establishments with 20 or more locations (hereinafter "chain retail food establishments") to provide calorie information, and other nutrition information, for standard menu items, food on display, and self-service food. Section 4205 also requires vending machine operators who own or operate 20 or more machines (hereinafter "chain vending machine operators") to disclose calories for articles of food. Restaurants and similar retail food establishments with fewer than 20 locations and vending machine operators with fewer than 20 machines may elect to be subject to these Federal requirements by registering every other year with the FDA.

Section 4205 of the Affordable Care Act became effective on the date the law was signed, March 23, 2010; however, some provisions specifically require FDA to issue rules before FDA implements them. Other provisions became requirements immediately upon enactment of the law. The draft guidance, when finalized, will explain how those provisions should be implemented.

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 the draft guidance before it begins work on the final version of the guidance, submit electronic or written comments on the draft guidance by October 12, 2010.

ADDRESSES: Submit electronic comments on the draft guidance to *http://www.regulations.gov*. Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit written requests for single copies of the draft guidance to the Office of Nutrition, Labeling, and Dietary Supplements, Center for Food Safety and Applied Nutrition (HFS–820), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance.

FOR FURTHER INFORMATION CONTACT: Geraldine A. June, Center for Food Safety and Applied Nutrition (HFS–820), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–2371.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance entitled "Guidance for Industry: Questions and Answers Regarding Implementation of the Menu Labeling Provisions of Section 4205 of the Patient Protection and Affordable Care Act of 2010."

The availability of nutrition information through menu and vending machine labeling would provide Americans with additional information to make informed choices about their diets. Studies show that providing nutrition information at restaurants can help people make healthier choices (Refs. 1 and 2). Responding to this demand for information, several States and localities have initiated a variety of legislative or regulatory efforts for menu labeling, which has resulted in differing requirements across jurisdictions. These differing requirements have created logistical challenges for restaurant chains that have locations in more than one jurisdiction (Ref. 3).

On March 23, 2010, the President signed into law the Affordable Care Act (Public Law 111–148), which sets up a uniform nationwide approach to menu and vending machine labeling. Section 4205 of the Affordable Care Act (hereinafter "section 4205") creates a new subparagraph (H) within section 403(q)(5) of the Federal Food, Drug, and Cosmetic Act (the act), to be codified at 21 U.S.C. 343(q)(5)(H), which requires certain chain retail food establishments to provide calorie information and other nutrition information for menu items, food on display, and self-service food. Section 4205 also requires chain vending machine operators to disclose calories for articles of food. Chain retail food establishments with fewer than 20 locations (or other restaurants or similar retail food establishments not covered by section 4205) and vending machine operators with fewer than 20 machines may elect to be subject to these Federal requirements by registering every other year with the FDA.

Section 4205 became effective on the date the law was signed, March 23, 2010; however, some provisions require FDA to issue rules before FDA implements them. Other provisions must be implemented immediately upon enactment of the law. FDA is required to issue a proposed rule implementing section 4205 by March 23, 2011.

For chain retail food establishments, the provisions that became requirements immediately upon enactment of the law include:

(1) Disclosing the number of calories in each standard menu item on menus and menu boards,

(2) Making additional written nutrition information available to consumers upon request,

(3) Providing a statement on menus and menu boards about the availability of the additional nutrition information, and

(4) Providing calorie information (per serving or per food item) for most self-service items and food on display, on a sign adjacent to each food item.

In addition, the provision requiring chain vending machine operators to disclose, in a clear and conspicuous manner, calories of any article of food that does not permit a prospective purchaser to examine its Nutrition Facts panel before purchasing, or does not otherwise provide visible nutrition information at the point of purchase, became an immediate requirement upon enactment of the law.

FDA is issuing this draft guidance as Level 1 draft guidance 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 the provisions in section 4205 related to chain retail food establishments that became requirements immediately upon enactment of the law. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternate approach may be used if such approach satisfies the requirements of the applicable statutes and regulations. FDA is soliciting comments from interested parties on the entire document to better inform the agency as it develops further guidance.

II. Paperwork Reduction Act of 1995

This draft guidance 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 section 4205 of the Affordable Care Act have been approved under OMB Control No. 0910–0665 (menu labeling third party disclosures and recordkeeping) and OMB Control No. 0910–0664 (voluntary registration program).

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding the draft guidance. It is only necessary to send one set of comments. It is no longer necessary to send two sets of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the draft guidance at *http://www.fda.gov/FoodGuidances*.

V. References

FDA has placed the following references on display in the Division of Dockets Management (see **ADDRESSES**), and they 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 subsequesnt changes to the Web sites after this document publishes in the **Federal Register**.)

1. Howlett, E.A., S. Burton, K. Bates, and K. Huggins, "Coming to a Restaurant Near You? Potential Consumer Responses to Nutrition Information Disclosure on Menus," *Journal of Consumer Research* 36(3): 494–503, 2009. Available at *http://www.journals.uchicago.edu/doi/pdf/10.1086/598799*.

2. Tandon, P.S., J.Wright, C. Zhou, C.B. Rogers, D.A. Christakis, "Nutrition Menu Labeling May Lead to Lower-Calorie Restaurant Meal Choices for Children," *Pediatrics* 125(2): 244–248, 2010.

3. Center for Science in the Public Interest, "Comparison of Menu Labeling Policies," Available at *http://cspinet.org/new/pdf/comparison_of_ml_policies_6-9.pdf*.

Dated: August 18, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–21065 Filed 8–24–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–D–0354]

Guidance for Industry: Questions and Answers Regarding the Effect of Section 4205 of the Patient Protection and Affordable Care Act of 2010 on State and Local Menu and Vending Machine Labeling Laws; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance entitled "Guidance for Industry: Questions and Answers Regarding the Effect of Section 4205 of the Patient Protection and Affordable Care Act of 2010 on State and Local Menu and Vending Machine Labeling Laws." Section 4205 of the Patient Protection and Affordable Care Act of 2010 (Affordable Care Act) establishes requirements for nutrition labeling of standard menu items for chain retail food establishments and chain vending machine operators. FDA is issuing this guidance to clarify section 4205's effect on State and local menu and vending machine labeling laws, and to ensure that industry and State and local government understand the immediate effects of the law.

DATES: Submit either electronic or written comments on the guidance at any time.

ADDRESSES: Submit electronic comments on the guidance 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. Submit written requests for single copies of the guidance to the Office of Nutrition, Labeling and Dietary Supplements, Center for Food Safety and Applied Nutrition (HFS–820), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Felicia B. Billingslea, Center for Food Safety and Applied Nutrition (HFS–820), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–2373.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance entitled "Guidance for Industry: Questions and Answers Regarding the Effect of Section 4205 of the Patient Protection and Affordable Care Act of 2010 on State and Local Menu and Vending Machine Labeling Laws." FDA is issuing this guidance in a Questions and Answers format as an informational guide to industry and State and local governments affected by the enactment of section 4205 of the Affordable Care Act (Public Law 111–148), which became effective on March 23, 2010. Section 4205 of the Affordable Care Act requires restaurants or similar retail food establishments with 20 or more locations doing business under the same name and offering for sale substantially the same menu items ("chain retail food establishments") to disclose specific nutrition information about certain food items offered for sale. Section 4205 also requires vending machines operated by persons who own or operate 20 or more vending machines ("chain vending machine operators") to disclose calorie information for certain food articles sold in vending machines. FDA is issuing this guidance to clarify section 4205's effect on State and local menu and vending machine labeling laws, and to ensure that industry and State and local government understand the immediate effects of the law.

FDA is issuing this guidance as level 1 guidance consistent with FDA's good guidance practices regulation (§ 10.115 (21 CFR 10.115)). Consistent with FDA's good guidance practices regulation, the agency will accept comment, but is implementing the guidance document immediately, in accordance with § 10.115(g)(2), because the agency has determined that prior public participation is not feasible or appropriate in light of the need to respond expeditiously to the mandates in section 4205 of the Affordable Care Act, which was effective on March 23, 2010. The guidance represents the agency's current thinking on section 4205's effective date, and effect on State and local menu and vending machine labeling laws. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternate approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in the Federal Food, Drug, and Cosmetic Act and established by section 4205 of the Affordable Care Act. 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 section 4205 of the Affordable Care Act have been approved under OMB control no. 0910–0665.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the guidance at *http://www.fda.gov/FoodGuidances*.

Dated: August 18, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–21067 Filed 8–24–10; 8:45 am]

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FEDERAL REGISTER PAGES AND DATE, AUGUST

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

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H.R. 511/P.L. 111–231
To authorize the Secretary of Agriculture to terminate certain easements held by the Secretary on land owned by the Village of Caseyville, Illinois, and to terminate associated contractual arrangements with the Village. (Aug. 16, 2010; 124 Stat. 2489)

H.R. 2097/P.L. 111–232
Star-Spangled Banner Commemorative Coin Act (Aug. 16, 2010; 124 Stat. 2490)

H.R. 3509/P.L. 111–233
Agricultural Credit Act of 2010 (Aug. 16, 2010; 124 Stat. 2493)

H.R. 4275/P.L. 111–234
To designate the annex building under construction for the Elbert P. Tuttle United States Court of Appeals Building in Atlanta, Georgia, as the ''John C. Godbold Federal Building''. (Aug. 16, 2010; 124 Stat. 2494)

H.R. 5278/P.L. 111–235
To designate the facility of the United States Postal Service located at 405 West Second Street in Dixon, Illinois, as the ''President Ronald W. Reagan Post Office Building''. (Aug. 16, 2010; 124 Stat. 2495)

H.R. 5395/P.L. 111–236
To designate the facility of the United States Postal Service located at 151 North Maitland Avenue in Maitland, Florida, as the ''Paula Hawkins Post Office Building''. (Aug. 16, 2010; 124 Stat. 2496)

H.R. 5552/P.L. 111–237
Firearms Excise Tax Improvement Act of 2010 (Aug. 16, 2010; 124 Stat. 2497)

Last List August 16, 2010

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