Federal Register

4–8–10 Thursday
Vol. 75 No. 67 Apr. 8, 2010

Pages 17847–18046

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Contents

Federal Register

Vol. 75, No. 67

Thursday, April 8, 2010

Advisory Council on Historic Preservation
See Historic Preservation, Advisory Council

Agriculture Department
See Forest Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17896

Air Force Department
NOTICES
Privacy Act; Systems of Records, 17911–17912

Centers for Disease Control and Prevention
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17921–17923

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Interstate Administrative Subpoena, 17925–17926
Interstate Lien, 17926–17927
ORR Requirements for Refugee Cash Assistance; and Refugee Medical Assistance, 17927

Civil Rights Commission
NOTICES
Meetings:
Connecticut Advisory Committee, 17898
Meetings; Sunshine Act, 17898

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration

Community Development Financial Institutions Fund
NOTICES
Funding Opportunity:
New Markets Tax Credit Program; Applications, 18016–18026

Comptroller of the Currency
RULES
Freedom of Information Act, 17849–17851

Consumer Product Safety Commission
NOTICES
Meetings; Sunshine Act, 17903

Defense Acquisition Regulations System
RULES
Defense Federal Acquisition Regulation Supplement:
Acquisitions in Support of Operations in Iraq or Afghanistan (DFARS Case 2008–D002), 18035–18040
Export-Controlled Items (DFARS Case 2004–D010), 18030–18034
Research and Development Contract Type Determination (DFARS Case 2006–D053), 18034–18035
PROPOSED RULES
Defense Federal Acquisition Regulation Supplement:
Minimizing Use of Hexavalent Chromium (DFARS Case 2009–D004), 18041–18042

Defense Department
See Air Force Department
See Defense Acquisition Regulations System
See Navy Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
American Recovery and Reinvestment Act One Time Reporting Requirements for Prime Contractors, 17919
American Recovery and Reinvestment Act; One Time Reporting Requirements for First-tier Subcontractors, 17918
American Recovery and Reinvestment Act – Quarterly Reporting for Prime Contractors, 17919–17920
Meetings:
Federal Advisory Committee; Defense Health Board, 17903–17904
Privacy Act; Systems of Records, 17904–17910

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals; Correction, 17912

Election Assistance Commission
NOTICES
Meetings; Sunshine Act, 17912–17913

Employee Benefits Security Administration
NOTICES
Proposed Exemption:
Citizens Bank Wealth Management, N.A., 17966–17970

Employment and Training Administration
NOTICES
Availability of Funds and Solicitation for Grant Applications:
Grants Serving Young Adult Offenders and High School Dropouts in High-Poverty, High-Crime Communities, 17957–17966

Energy Department
See Western Area Power Administration

Environmental Protection Agency
RULES
Approval and Promulgation of Air Quality Implementation Plans:
Delaware; Reasonable Further Progress Plan, 2002 Base Year Inventory, etc., 17863–17865
Particulate Matter Standards; Wisconsin, 17865–17868
Approval and Promulgation of Implementation Plans:
New Mexico; Interstate Transport of Pollution, 17868–17872
PROPOSED RULES
Approval and Promulgation of Air Quality Implementation Plans:
Particulate Matter Standards; Wisconsin, 17894

Approval and Promulgation of Implementation Plans:
New Mexico; Interstate Transport of Pollution, 17894–17895
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
8-Hour Ozone National Ambient Air Quality Standard, 17915–17917
Clean Water Act Section 303(d):
Final Agency Action on Seven Total Maximum Daily Loads (TMDLs) in Louisiana, 17917

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Amendment of Class E Airspace:
Altus, OK; Correction, 17852–17853
Dallas–Fort Worth, TX, 17851–17852
PROPOSED RULES
Airworthiness Directives:
Boeing Company Model 737–300, –400, and –500 Series Airplanes, 17882–17884
Boeing Company Model 767 Airplanes, 17887–17889
Boeing Company Model 777–200, –200LR, –300, and 300ER Series Airplanes, 17889–17891
Bombardier, Inc. Model CL 600 2B19 (Regional Jet Series 100 & 440) Airplanes et al., 17884–17887
Cessna Aircraft Company Model 750 Airplanes, 17879–17882
Amendment of Class D Airspace:
Goldsboro, NC, 17891–17892
Proposed Revision of Class E Airspace:
Galena, AK, 17892–17894
NOTICES
Membership:
National Parks Overflights Advisory Group Aviation Rulemaking Committee, 18014–18015

Federal Communications Commission
RULES
Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service, 17874–17878
High-Cost Universal Service Support, Jurisdictional Separations, and Coalition:
Equity in Switching Support Petition for Reconsideration, 17872–17874

Federal Emergency Management Agency
NOTICES
Draft Programmatic Environmental Assessment for the Evaluation of the Grant Programs Directorates Programs, 17940–17942

Federal Highway Administration
NOTICES
Finding of No Significant Impact:
US 421 Milton–Madison Bridge Replacement, 18014

Federal Maritime Commission
NOTICES
Agreements Filed, 17917–17918

Federal Railroad Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 18012–18013

Federal Reserve System
NOTICES
Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction, 17917

Fish and Wildlife Service
NOTICES
Endangered and Threatened Wildlife and Plants:
5-Year Status Reviews of 69 Species in Idaho, Washington, Hawaii, Guam, and Commonwealth of Northern Mariana Islands, 17947–17950

Food and Drug Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Applications for Food and Drug Administration Approval to Market a New Drug, etc., 17924–17925
Recordkeeping Requirements for Microbiological Testing and Corrective Measures for Bottled Water, 17923–17924
Debarment Order:
Kevin Xu, 17927–17928
Filing of Food Additive Petition:
Nisso America, Inc., 17928–17929
Meetings:
Vaccines and Related Biological Products Advisory Committee, 17929
Withdrawal of Color Additive Petition:
EMD Chemicals, Inc., 17939–17940

Foreign Assets Control Office
NOTICES
Designation of Two Individuals Pursuant to Executive Order (13224), 18015–18016

Foreign-Trade Zones Board
NOTICES
Application for Expansion and Reorganization under Alternative Site Framework:
Foreign-Trade Zone 144 – Brunswick, GA, 17898–17899

Forest Service
NOTICES
Maintenance and Vegetation Management Along Existing Transmission Line Rights of Way:
National Forest System Lands, Colorado, Utah, and Nebraska, 17913–17915
Meetings:
Lake County Resource Advisory Committee, 17897
National Tree-marking Paint Committee, 17897–17898
Sierra County Resource Advisory Committee, 17896–17897
Siskiyou County Resource Advisory Committee, 17897

General Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
American Recovery and Reinvestment Act One Time Reporting Requirements for Prime Contractors, 17919
American Recovery and Reinvestment Act; One Time Reporting Requirements for First-tier Subcontractors, 17918
American Recovery and Reinvestment Act – Quarterly Reporting for Prime Contractors, 17919–17920

Government Accountability Office
NOTICES
Letters of Nomination:
Advisory Board to the Consumer Operated and Oriented Plan Program, 17918

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See Health Resources and Services Administration
NOTICES
Petition to Designate a Class of Employees to be included in the Special Exposure Cohort:
Ames Laboratory, Ames, IA, 17920

Health Resources and Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17920–17921, 17923
Meetings:
Secretary's Advisory Committee on Heritable Disorders in Newborns and Children, 17929–17930
Privacy Act; Altered System of Records, 17930–17937
Privacy Act; Deletion of an Existing System of Records, 17937–17938
Request for Nominations:
Advisory Committee on Interdisciplinary, Community-Based Linkages, 17938–17939

Historic Preservation, Advisory Council
NOTICES
Meetings, 17940

Homeland Security Department
See Federal Emergency Management Agency

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Public Housing Contracting With Resident-Owned Businesses/Application Requirements, 17942
Quality Control for Rental Assistance Subsidy Determinations, 17942–17943
Section 8 Random Digit Dialing Fair Market Rent Telephone Survey, 17943–17944
Credit Watch Termination Initiative, 17944–17946
Family Report, MTW Family Report, 17946

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service
See Surface Mining Reclamation and Enforcement Office

Internal Revenue Service
RULES
Travel Expenses of State Legislators, 17854–17857
NOTICES
Credit for Renewable Electricity Production, Refined Coal Production, and Indian Coal Production, etc.; Correction, 18015

International Trade Administration
NOTICES
Postponement of Preliminary Determination in the Countervailing Duty Investigation:
Drill Pipe from the People's Republic of China, 17902–17903

International Trade Commission
NOTICES
Meetings; Sunshine Act, 17956

Justice Department
See Justice Programs Office

Justice Programs Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17956–17957

Labor Department
See Employee Benefits Security Administration
See Employment and Training Administration

Land Management Bureau
NOTICES
Environmental Impact Statements; Availability, etc.:
Clear Creek Management Area, California, 17951
Southeastern Oregon Resource Management Plan, Malheur County, OR, and the Lakeview RMP, Lake County, OR, 17950–17951
Filings of Plat of Survey:
New Mexico, 17952
Montana, 17952–17953
Noncompetitive Lease of Public Land:
Josephine County, OR, 17954–17955
Public Land Order:
Partial Revocation of the Bureau of Reclamation Order Dated February 19, 1952; California; Correction, 17955
Realty Action:
Segregation of Public Land for Proposed Sale in Sandoval County, NM, 17955–17956

National Aeronautics and Space Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
American Recovery and Reinvestment Act One Time Reporting Requirements for Prime Contractors, 17919
American Recovery and Reinvestment Act; One Time Reporting Requirements for First-tier Subcontractors, 17918
American Recovery and Reinvestment Act – Quarterly Reporting for Prime Contractors, 17919–17920

National Oceanic and Atmospheric Administration
NOTICES
Availability of Seats:
Gray's Reef National Marine Sanctuary Advisory Council, 17899–17900
Stellwagen Bank National Marine Sanctuary Advisory Council, 17899
Meetings:
New England Fishery Management Council, 17901–17902
Pacific Fishery Management Council, 17901
Southeastern Data, Assessment, and Review Steering Committee, 17900–17901
Western Pacific Fishery Management Council, 17902

Western Pacific Fishery Management Council; Corrections, 17900

National Park Service
NOTICES
Native American Graves Protection and Repatriation Review Committee Findings:
Identity of Cultural Items in Possession of American Museum of Natural History, New York, NY, 17953–17954

Navy Department
NOTICES
Privacy Act; Systems of Records, 17910–17911

Nuclear Regulatory Commission
NOTICES
Draft Environmental Assessment and Finding of No Significant Impact:
Nine Mile Point Nuclear Station, LLC; Nine Mile Point Nuclear Station (Unit No. 2); Correction, 17970–17976

Postal Service
RULES
2010 Standard Mail Incentive Program, 17861–17863

Presidential Documents
PROCLAMATIONS
Special Observances:
National Financial Literacy Month (Proc. 8493), 17847–17848
ADMINISTRATIVE ORDERS
Government Agencies and Employees:
American Recovery and Reinvestment Act of 2009; Noncompliance Reporting Requirements (Memorandum of April 6, 2010), 18043–18046

Securities and Exchange Commission
RULES
Adoption of Updated EDGAR Filer Manual, 17853–17854
NOTICES
Applications:
WNC Tax Credits 38, LLC, WNC Tax Credits 39, LLC, WNC Housing Tax Credits Manager, LLC, etc., 17976–17978
Privacy Act; Systems of Records, 17978–17980
Self-Regulatory Organizations; Proposed Rule Changes:
BATS Exchange, Inc., 17985–17987
International Securities Exchange, LLC, 17980–17981, 17983–17985
NASDAQ OMX BX, Inc., 17981–17983
NASDAQ OMX PHLX, Inc., 17987–17988

State Department
NOTICES
Certifications Pursuant to Section 609 of Public Law (101–162), 17988–17989
Climate Action Report; Request for Comments, 17989
Funding Opportunity:
American Youth Leadership Program, 17989–17996
Trans-Saharan Professionals Program, 17996–18005
U.S./Afghanistan Professional Partnership Program, 18005–18012

Surface Mining Reclamation and Enforcement Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17946–17947

Surface Transportation Board
NOTICES
Discontinuance of Trackage Rights Exemption:
Union Pacific Railroad Co., Alameda County, CA, 18013–18014

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Railroad Administration
See Surface Transportation Board

Treasury Department
See Community Development Financial Institutions Fund
See Comptroller of the Currency
See Foreign Assets Control Office
See Internal Revenue Service

United States Institute of Peace
NOTICES
Meetings, 18026

Veterans Affairs Department
RULES
Grants to States for Construction or Acquisition of State Home Facilities—Update of Authorized Beds, 17859–17861
Removal of Obsolete References to Herbicides Containing Dioxin, 17857–17859
NOTICES
Meetings:
Advisory Committee on the Readjustment of Veterans, 18026–18027

Western Area Power Administration
NOTICES
Maintenance and Vegetation Management Along Existing Transmission Line Rights of Way:
National Forest System Lands, Colorado, Utah, and Nebraska, 17913–17915

Separate Parts In This Issue

Part II
Defense Department, Defense Acquisition Regulations System, 18030–18042

Part III
Presidential Documents, 18043–18046

Reader Aids

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

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CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Proclamations:

8493 17847

Administrative Orders:

Memorandums:

Memorandum of April 6, 2010 18045

12 CFR

4 17849

14 CFR

71 (2 documents) 17851, 17852

Proposed Rules:

39 (5 documents) 17879, 17882, 17884, 17887, 17889

71 (2 documents) 17891, 17892

17 CFR

232 17853

26 CFR

1 17854

301 17854

602 17854

38 CFR

1 17857

59 17859

39 CFR

111 17861

40 CFR

52 (3 documents) 17863, 17865, 17868

Proposed Rules:

52 (2 documents) 17894

47 CFR

36 17872

54 17872

73 17874

48 CFR

204 18030

206 18035

225 18035

234 18034

235 (2 documents) 18030, 18034

252 (2 documents) 18030, 18035

Proposed Rules:

223 18041

252 18041

Federal Register
Vol. 75, No. 67
Thursday, April 8, 2010

Presidential Documents

Title 3—

The President

Proclamation 8493 of April 2, 2010

National Financial Literacy Month, 2010

By the President of the United States of America

A Proclamation

In recent years, our Nation's financial system has grown increasingly complex. This has left too many Americans behind, unable to build a secure financial future for themselves and their families. For many, financial literacy can mean economic prosperity and protection against fraud and predatory banking practices. During National Financial Literacy Month, we recommit to teaching ourselves and our children about the basics of financial education.

Our recent economic crisis was the result of both irresponsible actions on Wall Street, and everyday choices on Main Street. Large banks speculated recklessly without regard for the consequences, and other firms invented and sold complex financial products to conceal risks and escape scrutiny. At the same time, many Americans took out loans they could not afford or signed contracts without fully understanding the terms. Ensuring this crisis never happens again will require new rules to protect consumers and better information to empower them.

The new Consumer Financial Protection Agency I have proposed will ensure ordinary Americans get clear and concise financial information. We must put an end to confusing loan contracts, hidden fees attached to mortgages, and unfair penalties that appear without warning on bank statements. The Credit Card Accountability Responsibility and Disclosure Act of 2009 began reining in some of these deceptive tactics when it recently took effect. The President's Advisory Council on Financial Capability is also looking for new ways to help individuals make informed decisions and to educate our children on core financial competencies.

While our Government has a critical role to play in protecting consumers and promoting financial literacy, we are each responsible for understanding basic concepts: how to balance a checkbook, save for a child's education, steer clear of deceptive financial products and practices, plan for retirement, and avoid accumulating excessive debts. To learn more, visit: MyMoney.gov or call toll-free 1–888–MyMoney for helpful guidance and resources.

Our Nation's future prosperity depends on the financial security of all Americans. This month, let us each take time to improve our own financial knowledge and share that knowledge with our children. Together, we can prevent another crisis and rebuild our economy on a stronger, more balanced foundation.

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 April 2010 as National Financial Literacy Month. I call upon all Americans to observe this month with programs and activities to improve their understanding of financial principles and practices.

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

[FR Doc. 2010–8113
Filed 4–7–10; 8:45 am]
Billing code 3195–W0–P

Rules and Regulations

Federal Register
Vol. 75, No. 67
Thursday, April 8, 2010

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

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 4

[Docket ID OCC–2010–0008]

RIN 1557–AD22

Freedom of Information Act

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is amending its regulations governing the disclosure of information pursuant to requests made under the Freedom of Information Act (FOIA) to reflect changes to the FOIA made by the Openness Promotes Effectiveness in Our National Government Act of 2007 (OPEN Government Act) [1] and to make other changes that update the OCC's FOIA regulations.

DATES: *Effective Date:* This final rule is effective May 10, 2010.

FOR FURTHER INFORMATION CONTACT: Lee Walzer, Counsel, or Michele Meyer, Assistant Director, Legislative and Regulatory Activities Division, (202) 874–5090; or Frank Vance, Manager, Disclosure Services and Administrative Operations, Communications Division, (202) 874–5378.

SUPPLEMENTARY INFORMATION:

I. Background

The OPEN Government Act: Revised definitions contained in the FOIA; changed standards for recovering attorneys fees in FOIA litigation; revised time limits for agencies to act on FOIA requests; provided that search fees would not be charged if an agency fails to comply with time limits if no unusual or exceptional circumstances apply to the processing of the request; required agencies to establish a tracking system enabling requesters to check the status of their requests; added new reporting requirements to agencies' annual FOIA reports; and required agencies to describe the FOIA exemptions relied upon in redacting records that they release to requesters. Many provisions of the OPEN Government Act took effect upon enactment; others (including some related to the amendments to Part 4 in this final rule) were effective as of December 31, 2008.

Twelve CFR part 4, subpart B, sets forth OCC policies regarding the availability of information under the FOIA and procedures for requesters to follow when seeking such information. On April 24, 2009, the OCC published a notice of proposed rulemaking (NPRM) [2] to amend part 4 to comport with changes to the FOIA made by the OPEN Government Act, enacted on December 31, 2007. The comment period closed on June 23, 2009. The OCC received no comments on the NPRM and, accordingly, we are adopting the regulatory changes as proposed.

II. Description of the Final Rule

The final rule is substantively identical to the proposal, with minor wording changes to improve technical descriptions.

Required Description of FOIA Exemptions Used To Justify Non-Disclosure

The OPEN Government Act amended the FOIA by requiring that an agency detail the specific FOIA exemption under which material is deleted from information sought by a FOIA requester. If technically feasible, the agency should indicate the exemption under which the deletion was made at the place in the record where the agency deleted the material, and should indicate the amount of material that has been deleted.[3]

The OCC is adopting its proposed amendment to 12 CFR 4.12(d) to provide that the OCC will indicate the amount of information deleted, and the exemption pursuant to which the deletion was made, on the released portion of the material, unless doing so would harm an interest protected by an exemption under § 4.12(b). Where technically feasible, the OCC will indicate the amount of information deleted and the exemption relied upon for the deletion at the place where such deletion was made.

Time Period for Responding to a FOIA Request

The OCC is adopting its proposed revision of 12 CFR 4.15 to provide for the 20-day response period to a FOIA request permitted by the statute and to specify that the 20-day period does not include Saturdays, Sundays, and holidays. The OCC is also amending 12 CFR 4.15 to provide that the 20-day time period may be tolled when the OCC: (1) makes a one-time request for additional information from the requester; or (2) needs to clarify a fee-related issue with the requester. The tolling period would end upon receipt of the requested information or resolution of the fee issue, as the case may be.[4]

Finally, the OCC is adopting as proposed its amendment to 12 CFR 4.17 to clarify that a requester will not be required to pay any otherwise applicable search or duplication fees, as relevant, if the OCC fails to comply with applicable time limits, if no "unusual" or "exceptional" circumstances, as described in the FOIA and set forth in OCC regulations, apply to the processing of the FOIA request.[5]

Definition of "Representative of the News Media"

The OCC is adopting as proposed its amendment to the definition of "representative of the news media" in 12 CFR 4.17(a)(8) to comport with the new definition in FOIA, as amended by the OPEN Government Act. The final rule clarifies the circumstances in which a freelance writer will be deemed to be working as a representative of the news media. Consistent with the OPEN Government Act, freelance writers will be regarded as representatives of the news media if they can demonstrate a

[1] Public Law 110–175, 110th Cong., 1st Sess., 121 Stat. 2524 (2007).

[2] *See* 74 FR 18,659 (April 24, 2009).

[3] OPEN Government Act, section 12, *amending* 5 U.S.C. 552(b).

[4] The OPEN Government Act did not amend or repeal the FOIA provisions permitting agencies to extend the time for replying to FOIA requests in unusual circumstances. *Id.* at 552(a)(6)(B) and (C). Therefore, the OCC's rules continue to extend the time in such cases for up to an additional 10 business days. 12 CFR 4.15(f)(3).

[5] *See* 5 U.S.C. 552(a)(6)(B)–(C); 12 CFR 4.15(f)(3).

"solid basis" for expecting publication. The definition further permits the OCC to consider a requester's publication history in assessing whether the requester should be deemed a representative of the news media.

Tracking and Contact Information

To comply with the OPEN Government Act's requirements, the OCC launched an Internet Web site at *https://appsec.occ.gov/publicaccesslink/* in December, 2008, to provide the public the ability to check the status of a FOIA request online using an assigned tracking number. The final rule includes a new § 4.18, which provides the Internet address and explains that a tracking number will be assigned to every FOIA request. The new § 4.18 also addresses how individuals without Internet access can continue to receive status updates about their FOIA requests. To facilitate the operation of the new tracking service, the OCC is also amending 12 CFR 4.15(c) to include a request for an electronic mail address in the requester's contact information, where such information is available and the requester chooses to provide it.

III. Regulatory Analysis

Regulatory Flexibility Act

Pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b) (RFA), the regulatory flexibility analysis otherwise required under Section 604 of the RFA is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a short, explanatory statement in the **Federal Register** along with its rule. The final rule will not have such an impact on small entities because the changes being proposed affect mainly the OCC and its processing of FOIA requests, and impose no costs on filers of these requests. Pursuant to Section 605(b) of the RFA, the OCC hereby certifies that this proposal will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not needed.

Executive Order 12866

The OCC has determined that the final rule is not a significant regulatory action under Executive Order 12866.

Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), we have reviewed the final rule to assess any information collections. There are no collections of information as defined by the Paperwork Reduction Act.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (2 U.S.C. 1532) (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. If a budgetary impact statement is required, Section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that this final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, this proposal is not subject to Section 202 of the Unfunded Mandates Act.

List of Subjects in 12 CFR Part 4

National banks, Reporting and recordkeeping requirements, Administrative practice and procedure, Freedom of Information Act, Records.

■ For the reasons set forth in the preamble, chapter I of title 12 of the Code of Federal Regulations is amended as follows:

PART 4—ORGANIZATION AND AVAILABILITY OF INFORMATION UNDER THE FREEDOM OF INFORMATION ACT

■ 1. The authority citation for part 4 continues to read as follows:

Authority: 12 U.S.C. 93a. Subpart A also issued under 5 U.S.C. 552; Subpart B also issued under 5 U.S.C. 552; E.O. 12600 (3 CFR 1987 Comp., p. 235). Subpart C also issued under 5 U.S.C. 301, 552; 12 U.S.C. 161, 481, 482, 484(a), 1442, 1817(a)(3), 1818(u) and (v), 1820(d)(6), 1820(k), 1821(c), 1821(o), 1821(t), 1831m, 1831p–1, 1831o, 1867, 1951 *et seq.,* 2601 *et seq.,* 2801 *et seq.,* 2901 *et seq.,* 3101 *et seq.,* 3401 *et seq.;* 15 U.S.C. 77uu(b), 78q(c)(3); 18 U.S.C. 641, 1905, 1906; 29 U.S.C. 1204; 31 U.S.C. 9701; 42 U.S.C. 3601; 44 U.S.C. 3506, 3510. Subpart D also issued under 12 U.S.C. 1833e.

■ 2. Amend § 4.12 by adding two sentences at the end of paragraph (d) to read as follows:

§ 4.12 Information available under the FOIA.

* * * * *

(d) *Segregability.* * * * The OCC will note the location and extent of any deletion, and identify the FOIA exemption under which material has been deleted, on the released portion of the material, unless doing so would harm an interest protected by the exemption under paragraph (b) of this section pursuant to which the deletion was made. Where technically feasible, the amount of information redacted and the exemption pursuant to which the redaction was made will be indicated at the site(s) of the deletion.

■ 3. Amend § 4.15 by:

■ a. Revising the section heading, the heading for paragraph (c)(1), paragraph (c)(1)(i), the heading for paragraph (f), and paragraph (f)(1); and

■ b. Removing the word "or" at the end of paragraph (f)(3)(ii), removing the period at the end of paragraph (f)(3)(iii) and by adding in lieu thereof "; or", and adding paragraph (f)(3)(iv).

The revisions and addition read as follows.

§ 4.15 How to request records.

* * * * *

(c) * * * (1) *Contact information and what the request for records must include.* * * *

(i) The requester's full name, address, telephone number and, at the requester's option, electronic mail address.

* * * * *

(f) *Time limits for responding to FOIA requests.*—(1) The OCC makes an initial determination to grant or deny a request for records within 20 days (excluding Saturday, Sundays, and holidays) after the date of receipt of the request, as described in paragraph (g) of this section, except as stated in paragraph (f)(3) of this section.

* * * * *

(3) * * *

(iv) *Tolling of time limits.* (A) The OCC may toll the 20-day time period to:

(*1*) Make one request for additional information from the requester; or

(*2*) Clarify the applicability or amount of any fees, if necessary, with the requester.

(B) The tolling period ends upon the OCC's receipt of requested information from the requester or resolution of the fee issue.

* * * * *

■ 4. Amend § 4.17 by:

■ a. Revising the section heading, and paragraph (a)(8);

■ b. Adding paragraph (b)(6); and

■ c. Removing, in the parenthetical in paragraph (d), the phrase "10 business days", and by adding in lieu thereof the phrase "20 business days".

The revisions and addition are set forth below.

§ 4.17 FOIA request fees.

(a) * * *

(8) *Requester who is a representative of the news media* means any person who, or entity that, gathers information of potential interest to a segment of the public, uses editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. A freelance journalist shall be regarded as working for a news media entity if the person can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by that entity. A publication contract is one example of a basis for expecting publication that ordinarily would satisfy this standard. The OCC also may consider the past publication record of the requester in determining whether she or he qualifies as a "representative of the news media."

* * * * *

(b) * * *

(6) *No fee if the time limit passes and the OCC has not responded to the request.* The OCC will not assess search or duplication fees, as applicable, if it fails to respond to a requester's FOIA request within the time limits specified under 12 CFR 4.15, and no "unusual" circumstances (as defined in 5 U.S.C. 552(a)(6)(B) and § 4.15(f)(3)(i)) or "exceptional" circumstances (as defined in 5 U.S.C. 552(a)(6)(C)) apply to the processing of the request.

* * * * *

■ 5. Add § 4.18 to subpart B to read as follows:

§ 4.18 How to track a FOIA request.

(a) *Tracking number.* The OCC will issue a tracking number to all FOIA requesters within 5 days of the receipt of the request (as described in § 4.15(g)) in the OCC's Communications Department. The tracking number will be sent via electronic mail if the requester has provided an electronic mail address. Otherwise, the OCC will mail the tracking number to the requester's physical address, as provided in the FOIA request.

(b) *Web site.* FOIA requesters may check the status of their FOIA request(s) at *https://appsec.occ.gov/publicaccesslink/.*

(c) *If a requester does not have Internet access.* Requesters without Internet access may continue to contact the Disclosure Officer, Communications Division, Office of the Comptroller of the Currency, at (202) 874–4700 to check the status of their FOIA request(s).

Dated: April 2, 2010.

John C. Dugan,

Comptroller of the Currency.

[FR Doc. 2010–7940 Filed 4–7–10; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0926; Airspace Docket No. 09–ASW–26]

Amendment of Class E Airspace; Dallas-Fort Worth, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace in the Dallas-Fort Worth, TX area. Additional controlled airspace is necessary to accommodate new Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAP) at Bridgeport Municipal Airport, Bridgeport, TX. The FAA is taking this action to enhance the safety and management of Instrument Flight Rule (IFR) operations at Bridgeport Municipal Airport.

DATES: Effective 0901 UTC, July 29, 2010. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone (817) 321–7716.

SUPPLEMENTARY INFORMATION:

History

On November 9, 2009, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend Class E airspace for the Dallas-Fort Worth, TX area (74 FR 57617) Docket No. FAA–2009–0926. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9T signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by amending Class E airspace for the Dallas-Fort Worth, TX area, adding additional controlled airspace extending upward from 700 feet above the surface to accommodate SIAPs at Bridgeport Municipal Airport, Bridgeport, TX. Adjustments to the geographic coordinates will be made in accordance with the FAA's National Aeronautical Charting Office, as well as a name change for McKinney Municipal Airport to Collin County Regional Airport, McKinney, TX. This action is necessary for the safety and management of IFR operations. With the exception of editorial changes and the changes described above, this rule is the same as that proposed in the NPRM.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace in the Dallas-Fort Worth, TX area.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, and effective September 15, 2009, is amended as follows:

* * * * *

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

* * * * *

ASW TX E5 Dallas-Fort Worth, TX [Amended]

Dallas-Fort Worth International Airport, TX
(Lat. 32°53′49″ N., long. 97°02′17″ W.)
McKinney, Collin County Regional Airport, TX
(Lat. 33°10′41″ N., long. 96°35′26″ W.)
Rockwall, Rockwall Municipal Airport, TX
(Lat. 32°55′50″ N., long. 96°26′08″ W.)
Mesquite, Mesquite Metro Airport, TX
(Lat. 32°44′49″ N., long. 96°31′50″ W.)
Mesquite NDB
(Lat. 32°48′34″ N., long. 96°31′45″ W.)
Mesquite Metro ILS Localizer
(Lat. 32°44′03″ N., long. 96°31′50″ W.)
Lancaster, Lancaster Airport, TX
(Lat. 32°34′45″ N., long. 96°43′09″ W.)
Lancaster NDB
(Lat. 32°34′40″ N., long. 96°43′18″ W.)
Point of Origin
(Lat. 32°51′57″ N., long. 97°01′41″ W.)
Fort Worth, Fort Worth Spinks Airport, TX
(Lat. 32°33′55″ N., long. 97°18′29″ W.)
Cleburne, Cleburne Municipal Airport, TX
(Lat. 32°21′14″ N., long. 97°26′02″ W.)
Fort Worth, Bourland Field Airport, TX
(Lat. 32°34′54″ N., long. 97°35′27″ W.)
Granbury, Granbury Regional Airport, TX
(Lat. 32°26′40″ N., long. 97°49′01″ W.)
Weatherford, Parker County Airport, TX
(Lat. 32°44′47″ N., long. 97°40′57″ W.)
Bridgeport, Bridgeport Municipal Airport, TX
(Lat. 33°10′31″ N., long. 97°49′42″ W.)
Decatur, Decatur Municipal Airport, TX
(Lat. 33°15′15″ N., long. 97°34′50″ W.)

That airspace extending upward from 700 feet above the surface within a 30-mile radius of Dallas-Fort Worth International Airport, and within a 6.6-mile radius of Collin County Regional Airport at McKinney, and within 1.8 miles each side of the 002° bearing from the Collin County Regional Airport at McKinney extending from the 6.6-mile radius to 9.2 miles north of the airport, and within a 6.3-mile radius of Rockwall Municipal Airport, and within 1.6 miles each side of the 010° bearing from the Rockwall Municipal Airport extending from the 6.3-mile radius to 10.8 miles north of the airport, and within a 6.5-mile radius of Mesquite Metro Airport, and within 8 miles east and 4 miles west of the 001° bearing from the Mesquite NDB extending from the 6.5-mile radius to 19.7 miles north of the airport, and within 1.7 miles each side of the Mesquite Metro ILS Localizer south course extending from the 6.5-mile radius to 11.1 miles south of the airport, and within a 6.5-mile radius of the Lancaster Airport, and within 8 miles west and 4 miles east of the 129° bearing from the Lancaster NDB extending from the 6.5-mile radius to 16 miles southeast of the NDB, and within 8 miles northeast and 4 miles southwest of the 144° bearing from the Point of Origin extending from the 30-mile radius of Dallas-Fort Worth International Airport to 35 miles southeast of the Point of Origin, and within a 6.5-mile radius of Fort Worth Spinks Airport, and within 8 miles east and 4 miles west of the 178° bearing from Fort Worth Spinks Airport extending from the 6.5-mile radius to 21 miles south of the airport, and within a 6.9-mile radius of Cleburne Municipal Airport, and within 3.6 miles each side of the 292° bearing from the airport extending from the 6.9-mile radius to 12.2 miles northwest of Cleburne Municipal Airport, and within a 6.5-mile radius of Fort Worth's Bourland Field Airport, and within a 6.3-mile radius of Granbury Regional Airport, and within a 6.3-mile radius of Weatherford's Parker County Airport, and within 8 miles east and 4 miles west of the 177° bearing from Parker County Airport extending from the 6.3-mile radius to 21.4 miles south of the airport, and within a 6.3-mile radius of Bridgeport Municipal Airport, and within 1.6 miles each side of the 040° bearing from Bridgeport Municipal Airport extending from the 6.3-mile radius to 10.6 miles northeast of the airport, and within 4 miles each side of the 001° bearing from the Bridgeport Municipal Airport extending from the 6.3-mile radius to 10.7 miles north of the airport, and within a 6.3-mile radius of Decatur Municipal Airport, and within 1.5 miles each side of the 263° bearing from Decatur Municipal Airport extending from the 6.3-mile radius to 9.2 miles west of the airport.

Issued in Fort Worth, Texas, on March 29, 2010.

Walter L. Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2010–7805 Filed 4–7–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0405; Airspace Docket No. 09–ASW–17]

Amendment of Class E Airspace; Altus, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects the final rule published in the **Federal Register** December 29, 2009, amending Class E airspace in the Altus, OK area. The geographic coordinates were incorrect for the Altus Localizer. This action corrects that error.

DATES: Effective date 0901 UTC April 8, 2010. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone (817) 321–7716.

SUPPLEMENTARY INFORMATION:

History

On December 29, 2009, the FAA published in the **Federal Register** a final rule amending Class E airspace in the Altus, OK area (74 FR 68666, Docket No. FAA–2009–0405). Subsequent to publication, an error was discovered in the geographic coordinates for the Altus AFB ILS Runway 17R Localizer. This action corrects the coordinates. Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9T signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR part 71.1.

In rule FR Doc. E9–30283 published on December 29, 2009, (74 FR 68666) make the following correction:

On page 68667, in the first column, under Altus AFB ILS Runway 17R Localizer, remove "Lat. 34°43′15″ N., long 99°16′26″ W." and insert "Lat. 34°38′31″ N., long 99°16′26″ W."

Issued in Fort Worth, Texas, on March 29, 2010.

Walter L. Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2010–7803 Filed 4–7–10; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 232

[Release Nos. 33–9115; 34–61821; 39–2469; IC–29199]

Adoption of Updated EDGAR Filer Manual

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (the Commission) is adopting revisions to the Electronic Data Gathering, Analysis, and Retrieval System (EDGAR) Filer Manual to reflect updates to the EDGAR system. Revisions were are being made primarily to support the upgrade of the Mutual Fund Risk/Return Summary Taxonomy, to extend the interactive data/eXtensible Business Reporting Language ("XBRL") validation requirements to all Exhibit 101 attachments regardless of the taxonomy used, and to make minor updates to the validation and processing of Form D submissions and the amendments of 13F–HR and 13F–NT submission types. The EDGAR system is scheduled to be upgraded to support this functionality on April 12, 2010.

The filer manual is also being revised to address minor changes previously made in EDGAR.

The revisions to the Filer Manual reflect changes within Volume II entitled EDGAR Filer Manual, Volume II: "EDGAR Filing," Version 14 (April 2010). The updated manual will be incorporated by reference into the Code of Federal Regulations.

DATES: Effective April 8, 2010. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of April 8, 2010.

FOR FURTHER INFORMATION CONTACT: In the Division of Corporation Finance, for questions concerning 8–K Item 5.07, Form D, and updates to the EDGAR state/country list contact Cecile Peters, Chief, Office of Information Technology, at (202) 551–3600; in the Division of Investment Management for questions regarding 13F–HR, 13F–NT, EDGARLink submission validations, and submissions made by deregistered companies contact Ruth Armfield Sanders, Senior Special Counsel, Office of Legal and Disclosure, at (202) 551–6989; in the Office of Interactive Disclosure for questions concerning XBRL requirements contact Jeffrey Naumann, Assistant Director of the Office of Interactive Disclosure, at (202) 551–5352; in the Division of Trading and Markets for questions regarding OMB expiration dates for Forms TA–1 and TA–2 contact Catherine Moore, Special Counsel, Office of Clearance and Settlement, at (202) 551–5718; and in the Office of Information Technology, contact Rick Heroux, at (202) 551–8800.

SUPPLEMENTARY INFORMATION: We are adopting an updated EDGAR Filer Manual Volume II. The Filer Manual describes the technical formatting requirements for the preparation and submission of electronic filings through the EDGAR system.[1] It also describes the requirements for filing using EDGARLink [2] and the Online Forms/XML Web site.

The Filer Manual contains all the technical specifications for filers to submit filings using the EDGAR system. Filers must comply with the applicable provisions of the Filer Manual in order to assure the timely acceptance and processing of filings made in electronic format.[3] Filers may consult the Filer Manual in conjunction with our rules governing mandated electronic filing when preparing documents for electronic submission.[4]

The EDGAR system will be upgraded to Release 10.1 on April 12, 2010 and will introduce the following changes: EDGAR will be upgraded to support the 2010 Mutual Fund Risk/Return Summary Taxonomy, to extend the interactive Data/XBRL validations to all Exhibit 101 attachments regardless of the taxonomy used and to ensure that only one Exhibit 101 document is attached with a submission.

EDGAR will suspend amendments for submission types 13F–HR and 13F–NT if any of these amendments are submitted before the initial filing for the period end date included in the amendment.

Form D validation and processing will be updated to allow filers to indicate if they have solicited sales in foreign countries and to disseminate state and country description in addition to the state and country code.

The EDGARLite templates for Forms TA–1 and TA–2 are being updated to change the OMB expiration date to be "April 30, 2012" and "June 30, 2012" respectively.

The filer manual is also being revised to address minor changes previously made in EDGAR. Those changes are described below:

—Submission types 10KSB and 10KSB/A were removed from the EDGARLink Template 3.

—Support to allow the use of 8–K Item 5.07 (Submission of Matters to a Vote of Security Holders) on submission form types 8–K, 8–K/A, 8–K12B, 8–K12B/A, 8–K12G3, 8–K12G3/A, 8–K15D5, and 8–K15D5/A as of February 28, 2010.[5]

—EDGARLink submission validation was updated to validate that the value selected for the "Filer Investment Company Type" field on the main screen of EDGARLink submission types PREM14C, PREM14A, DEFM14A, DEFM14C, N–14, and N–14/A matches the selected value of the "Investment Company Type" field of the filer CIK when it is provided on the "Series/Classes (Contracts) Information" screen and to validate that the value selected for the "Investment Company Type" on the main screen of EDGARLink submission type 425 matches the value selected for the "Investment Company Type" of the Subject-Company CIK when it is provided on the "Series/Classes (Contracts) Information" screen.

—EDGAR began to accept the submission types NSAR–A, NSAR–B, NSAR–U, NSAR–A/A, NSAR–AT, NSARAT/A, NSAR–B/A, NSAR–BT, NSARBT/A, NSAR–U/A, 24F–2NT, 24F–2NT/A, N–CSR, N–CSRS, N–CSR/A, NCSRS/A, N–PX, and N–PX/A when inactive series and/or classes are included in a submission from a company with a deregistered status for 210 business days from the time the company was deregistered and to suspend those submission types if a deregistered company makes a submission more than 210 business days after becoming deregistered.

—EDGAR's state/country list was updated to include Aland Islands, Guernsey, Isle of Man, Jersey, Saint Barthelemy, Saint Martin, Serbia,

[1] We originally adopted the Filer Manual on April 1, 1993, with an effective date of April 26, 1993. Release No. 33–6986 (April 1, 1993) [58 FR 18638]. We implemented the most recent update to the Filer Manual on October 30, 2009. *See* Release No. 33–9077 (October 26, 2009) [74 FR 56107].

[2] This is the filer assistance software we provide filers filing on the EDGAR system.

[3] *See* Rule 301 of Regulation S–T (17 CFR 232.301).

[4] *See* Release No. 33–9077 (October 26, 2009) [74 FR 56107] in which we implemented EDGAR Release 9.17.

[5] *See* Release No. 33–9089 (December 16, 2009) [74 FR 68334].

Timor-Leste, Canada (Federal Level), and Montenegro and remove East Timor and Yugoslavia.

Along with adoption of the Filer Manual, we are amending Rule 301 of Regulation S–T to provide for the incorporation by reference into the Code of Federal Regulations of today's revisions. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

You may obtain paper copies of the updated Filer Manual at the following address: Public Reference Room, U.S. Securities and Exchange Commission, 100 F Street, NE., Room 1520, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. We will post electronic format copies on the Commission's Web site; the address for the Filer Manual is *http://www.sec.gov/info/edgar.shtml.*

Since the Filer Manual relates solely to agency procedures or practice, publication for notice and comment is not required under the Administrative Procedure Act (APA).[6] It follows that the requirements of the Regulatory Flexibility Act[7] do not apply.

The effective date for the updated Filer Manual and the rule amendments is April 8, 2010. In accordance with the APA,[8] we find that there is good cause to establish an effective date less than 30 days after publication of these rules. The EDGAR system upgrade to Release 10.1 is scheduled to be available on April 12, 2010. The Commission believes that establishing an effective date less than 30 days after publication of these rules is necessary to coordinate the effectiveness of the updated Filer Manual with the system upgrade.

Statutory Basis

We are adopting the amendments to Regulation S–T under Sections 6, 7, 8, 10, and 19(a) of the Securities Act of 1933,[9] Sections 3, 12, 13, 14, 15, 23, and 35A of the Securities Exchange Act of 1934,[10] Section 319 of the Trust Indenture Act of 1939,[11] and Sections 8, 30, 31, and 38 of the Investment Company Act of 1940.[12]

List of Subjects in 17 CFR Part 232

Incorporation by reference, Reporting and recordkeeping requirements, Securities.

[6] 5 U.S.C. 553(b).

[7] 5 U.S.C. 601–612.

[8] 5 U.S.C. 553(d)(3).

[9] 15 U.S.C. 77f, 77g, 77h, 77j, and 77s(a).

[10] 15 U.S.C. 78c, 78*l,* 78m, 78n, 78o, 78w, and 78*ll.*

[11] 15 U.S.C. 77sss.

[12] 15 U.S.C. 80a–8, 80a–29, 80a–30, and 80a–37.

Text of the Amendment

■ In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

■ 1. The authority citation for Part 232 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77z–3, 77sss(a), 78c(b), 78*l,* 78m, 78n, 78o(d), 78w(a), 78*ll,* 80a–6(c), 80a–8, 80a–29, 80a–30, 80a–37, and 7201 *et seq.;* and 18 U.S.C. 1350

* * * * *

■ 2. Section 232.301 is revised to read as follows:

§ 232.301 EDGAR Filer Manual.

Filers must prepare electronic filings in the manner prescribed by the EDGAR Filer Manual, promulgated by the Commission, which sets out the technical formatting requirements for electronic submissions. The requirements for becoming an EDGAR Filer and updating company data are set forth in the EDGAR Filer Manual, Volume I: "General Information," Version 8 (September 2009). The requirements for filing on EDGAR are set forth in the updated EDGAR Filer Manual, Volume II: "EDGAR Filing," Version 14 (April 2010). Additional provisions applicable to Form N–SAR filers are set forth in the EDGAR Filer Manual, Volume III: "N–SAR Supplement," Version 1 (September 2005). All of these provisions have been incorporated by reference into the Code of Federal Regulations, which action was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. You must comply with these requirements in order for documents to be timely received and accepted. You can obtain paper copies of the EDGAR Filer Manual from the following address: Public Reference Room, U.S. Securities and Exchange Commission, 100 F Street, NE., Room 1520, Washington, DC 20549, or call (202) 551–5850, on official business days between the hours of 10 a.m. and 3 p.m. Electronic copies are available on the Commission's Web site. The address for the Filer Manual is *http://www.sec.gov/info/edgar.shtml.* You can also inspect the document 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.*

By the Commission.

Dated: April 1, 2010.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–7856 Filed 4–7–10; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 301, and 602

[TD 9481]

RIN 1545–BG92

Travel Expenses of State Legislators

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to travel expenses of state legislators while away from home. The regulations affect eligible state legislators who make the election under section 162(h) of the Internal Revenue Code (Code). The regulations clarify the amount of travel expenses that a state legislator may deduct under section 162(h).

DATES: *Effective Date:* These regulations are effective *April 8, 2010.*

Applicability Date: For date of applicability, see § 1.162–24(h).

FOR FURTHER INFORMATION CONTACT: R. Matthew Kelley, (202) 622–7900 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under OMB Control Number 1545–2115.

The collection of information in these final regulations is in § 1.162–24(e). The information will help the IRS determine if a taxpayer may make or revoke an election under section 162(h). The collection of information is required to obtain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget.

The information will be reported on a statement attached to individual tax returns. The time needed to complete and file this statement will vary

depending on individual circumstances. The estimated burden for individual taxpayers filing this statement is 30 minutes.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains final amendments to the Income Tax Regulations, 26 CFR part 1, 26 CFR part 301, and 26 CFR part 602, relating to travel expenses of state legislators while away from home.

On March 31, 2008, a notice of proposed rulemaking (REG–119518–07) was published in the **Federal Register** (73 FR 16797). Written comments responding to the notice of proposed rulemaking were received. No public hearing was requested or held. After consideration of all the comments, the proposed regulations are adopted as amended by this Treasury decision. The comments and revisions are discussed in the preamble.

Explanation of Provisions and Summary of Comments

Under section 162(a), a state legislator may be entitled to deduct expenses paid or incurred in conducting legislative business (for example, living, transportation, and miscellaneous expenses) while traveling away from home. In addition, section 162(h) allows a state legislator to deduct deemed living expenses, but not other deemed business travel expenses, on specified legislative days. These regulations provide guidance on the special rules for deducting a state legislator's deemed living expenses.

Section 162(h) and the proposed regulations provide that a taxpayer who is a state legislator at any time during the taxable year may make an election under section 162(h) to treat the taxpayer's place of residence within the taxpayer's legislative district as the taxpayer's tax home. In addition, as a result of the election the taxpayer is deemed to be away from home in the pursuit of a trade or business on each legislative day and is deemed to have expended an amount for living expenses on that day. Under the proposed regulations, a legislative day for a taxpayer includes each day (1) The legislature is actually in session, (2) the legislature is not in session for a period not longer than 4 consecutive days, (3) the taxpayer's attendance is formally recorded at a meeting of a committee of the legislature, or (4) the taxpayer's attendance is formally recorded at a session of the legislature that only a limited number of members are expected to attend, such as a *pro forma* session.

1. Limitation on Availability of Deduction for Travel Expenses

Some commentators expressed concerns that the proposed regulations might impose new limits on state legislators' deductions for business travel expenses and suggested that the proposed regulations should not be finalized.

The final regulations do not adopt this comment because the regulations do not impose new limits. The regulations merely clarify the existing section 162(h) special rules for deducting state legislators' deemed living expenses for each legislative day. The regulations do not affect or limit the deduction for actual travel expenses under section 162(a). A taxpayer may continue to deduct actual substantiated travel expenses, whether or not the taxpayer qualifies under the special rule for deducting deemed expenses under section 162(h).

2. Definitions of In Session and Legislative Day

Some commentators objected to Federal regulations defining when a legislature is in session and what constitutes a legislative day for purposes of section 162(h). The commentators expressed concern that the proposed regulations would preempt state law governing the conduct of legislative affairs. The commentators recommended that the regulations not be issued.

The final regulations do not adopt this recommendation. These regulations define *in session* and *legislative day* solely for the purpose of interpreting the special rules of section 162(h), a matter of Federal law. *See Morgan* v. *Commissioner,* 309 U.S. 78, 81 (1940) ("If it is found in a given case that an interest or right created by local law was the object intended to be taxed, the federal law must prevail no matter what name is given to the interest or right by state law."). These regulations do not preempt or supersede state laws governing the conduct or operation of state legislatures. The regulations merely address what amounts (deemed living expenses) state legislators may deduct under section 162(h).

3. Definition of a State Legislator

The proposed regulations provide that a taxpayer is a state legislator for purposes of the regulations beginning on the day the taxpayer is sworn into office and ending on the day following the day on which the taxpayer's term in office ends.

Commentators noted that some state laws treat a legislator-elect as a legislator before the legislator-elect is sworn into office, for example, on the date elected, the date the election results are certified, or on January 1 following the election. A commentator stated that legislators-elect often move to the state capital immediately upon election to conduct legislative business, for example, to participate in the formation of committees and assignments. Commentators suggested that the definition of a state legislator in the final regulations be modified to permit legislators-elect to deduct legislative business expenses under these circumstances.

The final regulations do not adopt this suggestion. Although a legislator-elect who is present in the state capital on business prior to being sworn into office is not eligible to deduct deemed living expenses under section 162(h), the legislator-elect may be traveling away from home and may be entitled to deduct actual business travel expenses under the general rules of section 162(a).

4. Definition of a Committee of the Legislature

The proposed regulations provide that a committee of the legislature is a group consisting solely of legislators charged with conducting business of the legislature.

Commentators noted that it is common practice in a number of states for legislative committees to have non-legislative members. Commentators suggested that the final regulations modify the definition of a committee of the legislature to include groups tasked with conducting public policy or other legislative business that have legislator and non-legislator members.

In response to these comments, the final regulations define a committee of the legislature as a group that includes one or more legislators and is charged with conducting business of the legislature.

5. Effective/Applicability Date

A commentator expressed concern that an effective date for the final regulations that falls in the middle of a taxable year would create confusion about expenses paid or incurred in the part of the year before the effective date. To eliminate confusion, the final regulations apply to expenses paid or incurred, or deemed expended under section 162(h), in taxable years beginning after April 8, 2010, the date of publication of this regulation.

Effect on Other Documents

Rev. Rul. 82–33 (1982–1 CB 28) is obsolete as of *April 8, 2010.*

Special Analyses

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

Drafting Information

The principal author of these regulations is R. Matthew Kelley of the Office of Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR parts 1, 301, and 602 are amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding an entry to read in part as follows:

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

Section 1.162–24 also issued under 26 U.S.C. 162(h). * * *

■ **Par. 2.** Section 1.162–24 is added to read as follows:

§ 1.162–24 Travel expenses of state legislators.

(a) *In general.* For purposes of section 162(a), in the case of any taxpayer who is a state legislator at any time during the taxable year and who makes an election under section 162(h) for the taxable year—

(1) The taxpayer's place of residence within the legislative district represented by the taxpayer is the taxpayer's home for that taxable year;

(2) The taxpayer is deemed to have expended for living expenses (in connection with the taxpayer's trade or business as a legislator) an amount determined by multiplying the number of legislative days of the taxpayer during the taxable year by the greater of—

(i) The amount generally allowable with respect to those days to employees of the state of which the taxpayer is a legislator for per diem while away from home, to the extent the amount does not exceed 110 percent of the amount described in paragraph (a)(2)(ii) of this section; or

(ii) The Federal per diem with respect to those days for the taxpayer's state capital; and

(3) The taxpayer is deemed to be away from home in the pursuit of a trade or business on each legislative day.

(b) *Legislative day.* For purposes of section 162(h)(1) and this section, for any taxpayer who makes an election under section 162(h), a legislative day is any day on which the taxpayer is a state legislator and—

(1) The legislature is in session;

(2) The legislature is not in session for a period that is not longer than 4 consecutive days, without extension for Saturdays, Sundays, or holidays;

(3) The taxpayer's attendance at a meeting of a committee of the legislature is formally recorded; or

(4) The taxpayer's attendance at any session of the legislature that only a limited number of members are expected to attend (such as a *pro forma* session), on any day not described in paragraph (b)(1) or (b)(2) of this section, is formally recorded.

(c) *Fifty mile rule.* Section 162(h) and this section do not apply to any taxpayer who is a state legislator and whose place of residence within the legislative district represented by the taxpayer is 50 or fewer miles from the capitol building of the state. For purposes of this paragraph (c), the distance between the taxpayer's place of residence within the legislative district represented by the taxpayer and the capitol building of the state is the shortest of the more commonly traveled routes between the two points.

(d) *Definitions and special rules.* The following definitions apply for purposes of section 162(h) and this section.

(1) *State legislator.* A taxpayer becomes a state legislator on the day the taxpayer is sworn into office and ceases to be a state legislator on the day following the day on which the taxpayer's term in office ends.

(2) *Living expenses.* Living expenses include lodging, meals, and incidental expenses. *Incidental expenses* has the same meaning as in 41 CFR 300–3.1.

(3) *In session*—(i) *In general.* For purposes of this section, the legislature of which a taxpayer is a member is in session on any day if, at any time during that day, the members of the legislature are expected to attend and participate as an assembled body of the legislature.

(ii) *Examples.* The following examples illustrate the rules of this paragraph (d)(3):

Example 1. B is a member of the legislature of State X. On Day 1, the State X legislature is convened and the members of the legislature are expected to attend and participate. On Day 1, the State X legislature is in session within the meaning of paragraph (d)(3)(i) of this section. B does not attend the session of the State X legislature on Day 1. However, Day 1 is a legislative day for B for purposes of section 162(h)(2)(A) and paragraph (b)(1) of this section.

Example 2. C, D, and E are members of the legislature of State X. On Day 2, the State X legislature is convened for a limited session in which not all members of the legislature are expected to attend and participate. Thus, on Day 2 the legislature is not in session within the meaning of paragraph (d)(3)(i) of this section, and Day 2 is not a legislative day under paragraph (b)(1) of this section. In addition, Day 2 is not a day described in paragraph (b)(2) of this section. C and D are the only members who are called to, and do, attend the limited session on Day 2, and their attendance at the session is formally recorded. E is not called and does not attend. Therefore, Day 2 is a legislative day as to C and D under section 162(h)(2)(B) and paragraph (b)(4) of this section. Day 2 is not a legislative day as to E.

(4) *Committee of the legislature.* A committee of the legislature is any group that includes one or more legislators and that is charged with conducting business of the legislature. Committees of the legislature include, but are not limited to, committees to which the legislature refers bills for

consideration, committees that the legislature has authorized to conduct inquiries into matters of public concern, and committees charged with the internal administration of the legislature. For purposes of this section, groups that are not considered committees of the legislature include, but are not limited to, groups that promote particular issues, raise campaign funds, or are caucuses of members of a political party.

(5) *Federal per diem.* The Federal per diem for any city and day is the maximum amount allowable to employees of the executive branch of the Federal government for living expenses while away from home in pursuit of a trade or business in that city on that day. See 5 U.S.C. 5702 and the regulations under that section.

(e) *Election*—(1) *Time for making election.* A taxpayer's election under section 162(h) must be made for each taxable year for which the election is to be in effect and must be made no later than the due date (including extensions) of the taxpayer's Federal income tax return for the taxable year.

(2) *Manner of making election.* A taxpayer makes an election under section 162(h) by attaching a statement to the taxpayer's income tax return for the taxable year for which the election is made. The statement must include—

(i) The taxpayer's name, address, and taxpayer identification number;

(ii) A statement that the taxpayer is making an election under section 162(h); and

(iii) Information establishing that the taxpayer is a state legislator entitled to make the election, for example, a statement identifying the taxpayer's state and legislative district and representing that the taxpayer's place of residence in the legislative district is not 50 or fewer miles from the state capitol building.

(3) *Revocation of election.* An election under section 162(h) may be revoked only with the consent of the Commissioner. An application for consent to revoke an election must be signed by the taxpayer and filed with the submission processing center with which the election was filed, and must include—

(i) The taxpayer's name, address, and taxpayer identification number;

(ii) A statement that the taxpayer is revoking an election under section 162(h) for a specified year; and

(iii) A statement explaining why the taxpayer seeks to revoke the election.

(f) *Effect of election on otherwise deductible expenses for travel away from home*—(1) *Legislative days*—(i) *Living expenses.* For any legislative day for which an election under section 162(h) and this section is in effect, the amount of an electing taxpayer's living expenses while away from home is the greater of the amount of the living expenses—

(A) Specified in paragraph (a)(2) of this section in connection with the trade or business of being a legislator; or

(B) Otherwise allowable under section 162(a)(2) in the pursuit of any trade or business of the taxpayer.

(ii) *Other expenses.* For any legislative day for which an election under section 162(h) and this section is in effect, the amount of an electing taxpayer's expenses (other than living expenses) for travel away from home is the sum of the substantiated expenses, such as expenses for travel fares, telephone calls, and local transportation, that are otherwise deductible under section 162(a)(2) in the pursuit of any trade or business of the taxpayer.

(2) *Non-legislative days.* For any day that is not a legislative day, the amount of an electing taxpayer's expenses (including amounts for living expenses) for travel away from home is the sum of the substantiated expenses that are otherwise deductible under section 162(a)(2) in the pursuit of any trade or business of the taxpayer.

(g) *Cross references.* See § 1.62–1T(e)(4) for rules regarding allocation of unreimbursed expenses of state legislators and section 274(n) for limitations on the amount allowable as a deduction for expenses for or allocable to meals.

(h) *Effective/applicability date.* This section applies to expenses paid or incurred, or deemed expended under section 162(h), in taxable years beginning after *April 8, 2010.*

PART 301—PROCEDURE AND ADMINISTRATION

■ **Par. 3.** The authority citation for part 301 continues to read in part as follows:

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

§ 301.9100–4T [Amended]

■ **Par. 4.** Section 301.9100–4T is amended by removing from the table in paragraph (a)(1) "section 127(a)", and removing paragraph (a)(2)(iv).

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 5.** The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

■ **Par. 6.** In § 602.101, paragraph (b) is amended to add in numerical order an entry for "1.162–24" to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.162–24	1545–2115
* * * * *	

Linda M. Kroening,

(Acting) Deputy Commissioner for Services and Enforcement.

Approved: August 27, 2009.

Michael Mundaca,

(Acting) Assistant Secretary of the Treasury (Tax Policy).

Editorial Note: This document was received in the Office of the Federal Register on April 2, 2010.

[FR Doc. 2010–7932 Filed 4–7–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 1

RIN 2900–AN56

Removal of Obsolete References to Herbicides Containing Dioxin

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans (VA) is amending its regulation concerning evaluation of studies relating to the health effects of exposure to herbicides containing dioxin and radiation to remove the obsolete references to herbicides containing dioxin. This final rule reflects changes made by the Agent Orange Act of 1991 in the procedures for VA's evaluation of the health effects of exposure to herbicides containing dioxin. This document makes non-substantive changes for the purpose of removing obsolete regulatory provisions.

DATES: *Effective Date:* This final rule is effective April 8, 2010.

FOR FURTHER INFORMATION CONTACT: Tracey P. Warren (022K), Attorney, Office of the General Counsel, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7699. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Veterans' Dioxin

and Radiation Exposure Compensation Standards Act, Public Law 98–542 (hereinafter "1984 statute"), which required VA to prescribe regulations regarding the determination of service connection of disabilities of veterans who were exposed to herbicides containing dioxin during service in the Republic of Vietnam during the Vietnam era or were exposed during service to ionizing radiation from certain nuclear detonations. Section 6 of the statute established the Veterans' Advisory Committee on Environmental Hazards (hereinafter "Advisory Committee") and charged the Advisory Committee to provide VA with evaluations of pertinent scientific studies relating to possible adverse health effects of exposure to dioxin or ionizing radiation and with recommendations for legislative or administrative action. Section 5(b) of the 1984 statute directed VA to issue regulations establishing guidelines "governing the evaluation of the findings of scientific studies relating to the possible increased risk of adverse health effects of exposure to herbicides containing dioxin or of exposure to ionizing radiation." Section 5(b) further provided that the referenced evaluations of scientific studies would be made by the Administrator (now Secretary) of Veterans Affairs after receiving the advice of the Advisory Committee established under section 6 of the 1984 statute. Finally, section 5(b) provided that, under the prescribed regulations, VA would make determinations as to whether, and in what circumstances, service connection would be granted for particular diseases based on a finding that a disease is associated with exposure to herbicides containing dioxin or to ionizing radiation.

In August 1985, VA issued 38 CFR 1.17, 3.311a, and 3.311b to implement section 5(b) of the 1984 statute. 50 FR 34,452 (Aug. 26, 1985). Sections 3.311a and 3.311b set forth criteria governing adjudication of claims for service connection of conditions claimed to be associated with exposure to herbicides containing dioxin and to ionizing radiation, respectively. As they do currently, § 1.17(a) stated that VA will periodically publish notices in the **Federal Register** evaluating studies pertaining to the health effects of exposure to herbicides containing dioxin or to ionizing radiation, and § 1.17(b) set forth the criteria to be used by VA to evaluate the studies. Section 1.17(c) was added in 1989, 54 FR 40,388 (Oct. 2, 1989), stating that, if VA determines, based on evaluation of scientific or medical studies and after receiving the advice of the Advisory Committee, that there is a "significant statistical association" between any disease and exposure to herbicides containing dioxin or to ionizing radiation, VA will amend 38 CFR 3.311a or 3.311b to provide guidelines for establishing service connection for the disease.

After VA issued those regulations, Congress enacted the Agent Orange Act of 1991, Public Law 102–4, which established an entirely new process for evaluating the health effects of exposure to herbicides containing dioxin and for establishing presumptions of service connection for diseases associated with such exposure. Section 3 of the Agent Orange Act directed VA to enter into an agreement with the National Academy of Sciences for periodic reviews of the scientific evidence concerning the health effects of exposure to herbicides. Section 2 of the Agent Orange Act, codified at 38 U.S.C. 1116, provides that, after receiving a report from the National Academy, VA must determine whether a presumption of service connection is warranted for any disease discussed in that report. The statute provides that VA will find a presumption to be warranted if there is a "positive association" between herbicide exposure and the disease, meaning that the credible evidence for an association is equal to or outweighs the credible evidence against an association. 38 U.S.C. 1116(b). The statute further specifies the criteria VA must use in evaluating scientific studies for purposes of that determination. 38 U.S.C. 1116(b)(2). The Agent Orange Act also directs VA to issue regulations establishing presumptions of service connection, when warranted, and to publish notices in the **Federal Register** explaining the basis for any decision not to establish a presumption. 38 U.S.C. 1116(c).

Section 10 of the Agent Orange Act amended the 1984 statute to remove all references to herbicides containing dioxin. As a result, the provisions of the 1984 statute regarding recommendations by the Advisory Committee, VA's evaluation of scientific studies, and VA determinations with respect to specific diseases, are obsolete with regard to matters involving herbicide exposure, which are now governed by the comprehensive statutory scheme of the Agent Orange Act.

In 1994, VA removed 38 CFR 3.311a, the dioxin regulation issued under the 1984 statute, 59 FR 5105 (Feb. 3, 1994), on the ground that it had been superseded by regulations implementing the Agent Orange Act of 1991. 58 FR 50,528, 50,529 (1993). However, VA did not amend 38 CFR 1.17 at that time to remove the portions of § 1.17 that pertain to determinations concerning exposure to herbicides containing dioxin. We are therefore amending § 1.17 now to remove the obsolete provisions of that rule relating to herbicides containing dioxin. As explained above, the provisions of § 1.17 relating to herbicides containing dioxin were based on provisions of the 1984 statute that have since been repealed. The Agent Orange Act of 1991 has supplanted the procedures described in § 1.17 with different procedures in 38 U.S.C. 1116 governing VA's receipt and review of scientific evidence, determinations with respect to diseases, issuance of regulations, and publication of notices in the **Federal Register**. Accordingly, all of the references to herbicides containing dioxin in § 1.17 are outdated and have no further effect. We are therefore removing them as obsolete.

Nothing in this rule is intended to limit or alter VA's duty under the Agent Orange Act of 1991, codified at 38 U.S.C. 1116, to review scientific and medical evidence concerning the health effects of herbicide exposure and to publish notices in the **Federal Register** of VA's determinations on such matters.

Administrative Procedure Act

These amendments merely reflect statutory changes and remove provisions that have become obsolete. Accordingly, this final rule is exempt from the prior notice-and-comment and delayed-effective-date requirements of 5 U.S.C. 553.

Unfunded Mandates

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

Paperwork Reduction Act

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

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential

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

VA has examined the economic, interagency, budgetary, legal, and policy implications of this final rule and has concluded that it is not a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

The initial and final regulatory flexibility analyses requirements of section 603 and 604 of the Regulatory Flexibility Act, 5 U.S.C. 601–612, are not applicable to this rule because a notice of proposed rulemaking is not required for this rule. Even so, the Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act. Therefore, this final rule is also exempt pursuant to 5 U.S.C. 605(b) from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.109, Veterans Compensation for Service-Connected Disability; and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

List of Subjects in 38 CFR Part 1

Administrative practice and procedure, Archives and records, Cemeteries, Claims, Courts, Crime, Flags, Freedom of information, Government contracts, Government employees, Government property, Infants and children, Inventions and patents, Parking, Penalties, Privacy, Reporting and recordkeeping requirements, Seals and insignia, Security measures, Wages.

Approved: February 16, 2010.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

■ For the reasons set forth in the preamble, VA amends 38 CFR part 1 as follows:

PART 1—GENERAL PROVISIONS

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

Authority: 38 U.S.C. 501(a), and as noted in specific sections.

■ 2. Amend § 1.17 by:

■ a. Revising the section heading;

■ b. In paragraph (a), removing "exposure to an herbicide containing 2, 3, 7, 8 tetrachlorodibenzo-p-dioxin (dioxin) and/or";

■ c. In paragraph (c), removing "exposure to an herbicide containing dioxin or" and by removing, "§ 3.311a or § 3.311b of this title, as appropriate," and adding, in its place, "§ 3.311 of this chapter";

■ d. In paragraphs (d)(1) and (d)(4), removing "a particular type of exposure" and adding, in its place, "exposure to ionizing radiation";

■ e. In paragraph (f), removing "a particular exposure" and adding, in its place, "exposure to ionizing radiation"; and

■ f. Revising the authority citation at the end of the section.

The revisions read as follows:

§ 1.17 Evaluation of studies relating to health effects of radiation exposure.

* * * * *

(Authority: 38 U.S.C. 501; Pub. L. 98–542, as amended by Pub. L. 102–4)

[FR Doc. 2010–7792 Filed 4–7–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 59

RIN 2900–AM70

Grants to States for Construction or Acquisition of State Home Facilities—Update of Authorized Beds

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule the proposed rule to amend Department of Veterans Affairs (VA) regulations regarding grants to States for construction or acquisition of State homes. This final rule updates the maximum number of nursing home and domiciliary beds designated for each State and amends the definition of "State" for purposes of these grants to include Guam, the Northern Mariana Islands, and American Samoa.

DATES: *Effective Date:* This final rule is effective May 10, 2010.

FOR FURTHER INFORMATION CONTACT: James F. Burris, MD, Chief Consultant, Geriatrics and Extended Care State Home Construction Grant Program (114), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–6774.

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on July 10, 2009 (74 FR 33192), VA proposed to amend its regulations at 38 CFR part 59 concerning grants to States for the construction or acquisition of State home facilities.

Section 8134(a)(2) of title 38, U.S.C., mandates that VA prescribe for each State the maximum number of nursing home and domiciliary beds for which grants may be furnished. Section 8134(a)(4) requires that, not less often than every four years, VA must review and, as necessary, revise the regulations concerning the maximum number of State home beds designated for each State. In 2001, VA established the maximum number of State home beds for each State based on the projected demand for such beds in 2009, as required under section 8134(a)(2). VA now believes that Congress intended VA to recalculate the maximum number of beds for each State based on the projected demand for care ten years in the future and that this method would be consistent with the statutory requirement for establishing maximum State home bed numbers. Accordingly, VA proposed to revise the maximum number of nursing home and domiciliary beds for each State, for which grants may be furnished, based on the projected demand from veterans who, in 2020, are 65 years of age or older and reside in that State.

To compute the maximum number of beds for each State, we first estimated that there would be a total population of 8,672,045 veterans 65 years of age or older residing in all the States, projected to the year 2020. We then estimated that there would be a total demand of 55,299 State home beds nationwide in 2009. We then allocated the 55,299 beds based on the percentage of veterans who in

2020 are projected to reside in each State.

VA provided a 60-day comment period that ended September 8, 2009. VA received no comments. Based on the rationale set forth in the proposed rule and in this document, we are adopting the proposed rule as a final rule without change.

Unfunded Mandates

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

Paperwork Reduction Act of 1995

This document contains no provisions constituting a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Executive Order 12866

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

The economic, interagency, budgetary, legal, and policy implications of this rule have been examined and it has been determined to be a significant regulatory action under the Executive Order because it may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The rule will affect grants to States and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number and title for this rule is as follows: 64.005, Grants to States for Construction of State Home Facilities.

List of Subjects in 38 CFR Part 59

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

Approved: March 9, 2010.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

■ For the reasons stated in the preamble, VA amends 38 CFR part 59 as follows:

PART 59—GRANTS TO STATES FOR CONSTRUCTION OR ACQUISITION OF STATE HOMES

■ 1. The authority citation for part 59 is revised to read as follow:

Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8138.

■ 2. Amend § 59.2 by revising the definition of "State" to read as follows:

§ 59.2 Definitions.

* * * * *

State means each of the several states, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

* * * * *

■ 3. Amend § 59.40 by revising paragraph (a) to read as follows:

§ 59.40 Maximum number of nursing home care and domiciliary care beds for veterans by State.

(a) Except as provided in paragraph (b) of this section, a state may not request a grant for a project to construct or acquire a new state home facility, to increase the number of beds available at a state home facility, or to replace beds at a state home facility if the project would increase the total number of state home nursing home and domiciliary beds in that state beyond the maximum number designated for that state, as shown in the following chart. The provisions of 38 U.S.C. 8134 require VA to prescribe for each state the number of nursing home and domiciliary beds for which grants may be furnished (i.e., the unmet need). A state's unmet need for state home nursing home and domiciliary beds is the number in the following chart for that state minus the sum of the number of nursing home and domiciliary beds in operation at state home facilities and the number of state home nursing home and domiciliary beds not yet in operation but for which a grant has either been requested or awarded under this part.

State	Maximum number of state home, nursing home & domiciliary beds based on 2020 projections
Alabama	1007
Alaska	179
Arizona	1520
Arkansas	653
California	4363
Colorado	1114
Connecticut	559
Delaware	207
District of Columbia	83
Florida	4049
Georgia	1975
Hawaii	268
Idaho	394
Illinois	1754
Indiana	1216
Iowa	578
Kansas	518
Kentucky	818
Louisiana	638
Maine	362
Maryland	1102
Massachusetts	944
Michigan	1786
Minnesota	1058
Mississippi	480
Missouri	1257
Montana	281

State	Maximum number of state home, nursing home & domiciliary beds based on 2020 projections
Nebraska	371
Nevada	649
New Hampshire	361
New Jersey	992
New Mexico	417
New York	2209
North Carolina	1900
North Dakota	137
Ohio	2143
Oklahoma	766
Oregon	907
Pennsylvania	2336
Puerto Rico	288
Rhode Island	157
South Carolina	1089
South Dakota	179
Tennessee	1311
Texas	4119
Utah	426
Vermont	142
Virginia	1903
Virgin Islands	12
Washington	1687
West Virginia	406
Wisconsin	1062
Wyoming	154
American Samoa	0
Guam	12
N. Mariana Islands	1

Note to paragraph (a): The provisions of 38 U.S.C. 8134 require that the "un-met need" numbers be based on a 10-year projection of demand for nursing home and domiciliary care by veterans who at such time are 65 years of age or older and who reside in that state. In determining the projected demand, VA must take into account travel distances for veterans and their families.

* * * * *

[FR Doc. 2010–7791 Filed 4–7–10; 8:45 am]

BILLING CODE P

POSTAL SERVICE

39 CFR Part 111

2010 Standard Mail Incentive Program

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is revising *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®), to replace existing section 709.2 with new standards for a volume incentive program for mailers of Standard Mail® letters and flats with mail volume exceeding their individual USPS®—determined threshold levels. The program period will be from July 1, 2010 through September 30, 2010.

DATES: *Effective Date:* July 1, 2010.

FOR FURTHER INFORMATION CONTACT: Krista Becker at 202–268–7345 or Kevin Gunther at 202–268–7208.

SUPPLEMENTARY INFORMATION: The Postal Service is replacing the standards applicable to the Standard Mail Incentive Program that ended on September 30, 2009 with new standards describing the 2010 Standard Mail Incentive Program. The 2010 Standard Mail Incentive Program implements a volume incentive program for qualified high-volume mailers of Standard Mail, or Nonprofit Standard Mail, letters and flats, with volume mailed between July 1, 2010 and September 30, 2010, above their individual threshold level. The threshold level for this program will be set at five percent (5%) above the volume demonstrated by the participant mailer during the same period in 2009. This program encourages mailers to generate new volume and demonstrates the commitment of the Postal Service to the future health of the mailing industry.

To participate, mailers must be the permit holder (*i.e.* owner) of a permit imprint advance deposit account(s) or the owner of qualifying mail volume entered through the permit imprint advance deposit account of a mail service provider. Qualifying mailers must be able to demonstrate volume of at least three-hundred and fifty thousand (350,000) Standard Mail letters and/or flats, within the program qualification period of July 1, 2009 to September 30, 2009, mailed through a permit imprint advance deposit account, precanceled stamp permit, postage meter permit, or by a combination of these methods. Applicants may also qualify for the program with volume mailed through an account(s) owned by a mail service provider, when adequate documentation is provided that specifies the applicant is the owner of the mail.

The 2010 Standard Mail Incentive Program encourages mailers to generate new mail volume. As a deterrent to mailers shifting previously planned volume into the program to obtain incentive credits, the mailing activity of participating mail owners will be monitored in the calendar months prior to and following the end of the program as follows:

- For the 2010 Standard Mail Incentive Program, each participant's June 2010 and October 2010 expected volume will be defined as five percent (5%) over the total volume of Standard Mail letters and/or flats recorded for the participant in June 2009 and October 2009 respectively.
- Each participant's *actual* June 2010 and October 2010 volumes will be compared to their respective June 2010 and October 2010 expected volumes.

Participants demonstrating a shortfall with volume to either their June 2010 or October 2010 expected volumes will have that shortfall deducted from the number of mailpieces eligible for an incentive credit within the program regardless of any surplus demonstrated in the expected volume threshold of the other month.

Those mailers identified by the Postal Service as being eligible to participate in the program will be sent an invitation letter on or before May 1, 2010. This invitation letter will direct interested mailers to apply for the program online at *http://www.usps.com/summersale.* Mailers wishing to participate in the program, who believe they meet the eligibility standards under DMM 709.2.2 (of this final rule) and were not notified by letter, may request a review of their eligibility by contacting the USPS at *summersale@usps.gov* no later than May 15, 2010. Any mailer wishing to participate in the program must initially apply at *http://www.usps.com/summersale* no later than May 28, 2010.

Mailers completing the online application process will receive an electronic response from the USPS that includes:

- An individual volume threshold report.
- A certification letter.
- A threshold inquiry form.

The individual threshold report displays the applicant's July 1, 2009 to September 30, 2009 Standard Mail letters and flats volume mailing history, by permit number, and the applicant's USPS-calculated threshold. The report also includes the applicant's June 2009 and October 2009 mailing histories and the USPS-calculated expected June 2010 and October 2010 volumes. Applicants agreeing with the volume histories and USPS calculations can sign the provided certification letter and return a copy via e-mail to *summersale@usps.gov,* or mail hardcopy to Summer Sale Program Office, 475 L'Enfant Plaza, SW., RM 5410, Washington, DC 20260–5410, to be fully registered for the program. To simplify the review process, by identifying potential permit issues prior to scheduling contact with a USPS representative, applicants not agreeing with any portion of their volume histories must complete the threshold inquiry form and return it, via e-mail to *summersale@usps.gov,* or mail hardcopy to Summer Sale Program Office, 475 L'Enfant Plaza, SW., RM 5410, Washington, DC 20260–5410, no later than June 30, 2010. Applicants

disputing USPS volume histories or calculations will be required to provide supporting evidence as appropriate.

In addition to Standard Mail volume prepared and entered directly by the mailer (applicant), applicants are also eligible to participate in the program with qualifying volume prepared by a mail service provider when entered through a permit owned by the applicant. Mail volume through a mail service provider's permit may also qualify for the program if adequate documentation, such as PS Form 3602, *Postage Statement—Standard Mail,* identifies the mail as being prepared on behalf of the applicant and demonstrates the applicant's prior mailing activity. Mail service providers are not eligible for the 2010 Standard Mail Incentive Program.

Approved program participants, demonstrating an increase in their total Standard Mail letters and flats volume above their threshold level, will qualify for a credit to a single designated permit imprint advance deposit account or Centralized Account Payment System (CAPS) account, following the close of the October 2010 mailing activity review period. The total postage attributable to Standard Mail letters and flats within the program period will be identified for each participant and divided by the total number of recorded pieces, to generate the average price per piece. Participants receive a credit in the amount of thirty percent (30%) of the average price per piece for the total number of mailpieces of the incremental volume, above their threshold level, recorded during the program period.

Additionally, as part of the program administration, the Postal Service will require each program participant to certify the data used to calculate their program threshold level and their June 2010 and October 2010 expected volumes. This certification requirement will be similar to what is currently used on a PS Form 3602, *Postage Statement—Standard Mail.* The certification requirement for this initiative is designed to ensure that the data used by the Postal Service to calculate the threshold level and applicable June 2010 and October 2010 expected volumes for each qualifying mailer is accurate.

In accordance with the Postal Accountability and Enhancement Act, on February 26, 2010, the Postal Service filed a Notice with the Postal Regulatory Commission (PRC) regarding the 2010 Standard Mail Incentive Program. Regulatory review may take up to 45 days from that date.

The Postal Service adopts the following changes to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

■ Accordingly, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414. 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633 and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

700 Special Standards

* * * * *

709 Experimental and Temporary Classifications

* * * * *

[Delete current section 709.2.0 in its entirety and replace with new section 709.2.0 to introduce new standards for the 2010 Standard Mail Incentive Program as follows:]

2.0 2010 Standard Mail Incentive Program

2.1 Program Description

The 2010 Standard Mail Incentive Program provides volume pricing for qualified mail owners of Standard Mail, or Nonprofit Standard Mail, letters and/or flats that are able to document mail volume exceeding their individual USPS-determined threshold level, during the July 1, 2010 through September 30, 2010 program period. Participating mail owners documenting volumes above their established threshold level will receive a thirty percent (30%) credit, for each piece exceeding their individual USPS-determined threshold level, to a single designated permit imprint advance deposit account or Centralized Account Payment System (CAPS) account at the conclusion of the program period. To participate in the program, applicants must review and certify the accuracy of the data used by the USPS to calculate their threshold level and their June 2010 and October 2010 expected volumes.

2.2 Eligibility Standards

Mail owners are considered eligible for the program as follows:

a. Applicants must be able to document, in aggregate, volume of at least three-hundred and fifty thousand (350,000) pieces of Standard Mail, or Nonprofit Standard Mail, letters and/or flats in the July 1, 2009 to September 30, 2009 time period as follows:

1. Volume through one or more permit imprint advance deposit accounts, precanceled stamp permits, or postage meter permits owned by the applicant, or

2. Volume prepared by a mail service provider when entered through a permit owned by the applicant, or

3. Volume within a mail service provider's permit, which can be identified as being prepared on behalf of the applicant.

b. Mail service providers are not eligible to participate in this program.

2.3 Program Threshold Level

Threshold level figures will be calculated independently for each applicant as follows:

a. Thresholds will be calculated independently for each applicant, based on the consolidated volume of Standard Mail letters and/or flats mailed within the period from July 1, 2009 to September 30, 2009.

b. Five percent (5%) above (or 105% of) the total consolidated volume mailed during this period defines the USPS-determined threshold level for an individual applicant.

2.4 Application

Mail owners identified by the Postal Service as being eligible to participate in the program will be sent an invitation letter on or before May 1, 2010. Mail owners may apply for the program as follows:

a. The invitation letter will direct interested mail owners to apply for the program online at *www.usps.com/summersale.*

b. Mail owners wishing to participate in the program must initially apply online, or contact the USPS, at *summersale@usps.gov* no later than May 28, 2010.

c. Mail owners completing the online application process will receive an electronic response from the USPS that includes:

1 An individual volume threshold report displaying the applicant's July 1, 2009 to September 30, 2009 Standard Mail letters and flats volume mailing history (by permit number), the applicant's USPS-calculated threshold, the applicant's June 2009 and October

2009 mailing histories and the USPS-calculated expected June 2010 and October 2010 volumes.

2 A certification letter.

3 A threshold inquiry form.

d. Applicants agreeing with the volume histories and USPS calculations can sign the provided certification letter and return a copy via e-mail to *summersale@usps.gov,* or mail hardcopy to Summer Sale Program Office, 475 L'Enfant Plaza, SW., RM 5410, Washington, DC 20260–5410, no later than June 30, 2010, to be fully registered for the program.

e. Applicants not in agreement with any portion of their volume histories must complete threshold inquiry form and return it, via e-mail to *summersale@usps.gov,* or mail hardcopy to Summer Sale Program Office, 475 L'Enfant Plaza, SW., RM 5410, Washington, DC 20260–5410, no later than June 30, 2010.

f. Applicants disputing USPS volume histories or calculations will be required to provide supporting evidence as appropriate.

g. Upon resolution of threshold and expected volume figures, applicants must provide a copy of the certification letter as described in d.

h. Mail owners wishing to participate in the program, who believe they meet the eligibility standards under 2.2 and were not notified by letter, may request a review of their eligibility by contacting the USPS at *summersale@usps.gov* no later than May 15, 2010.

2.5 Program Participation

Mail owners may participate in the program with qualifying volume as follows:

a. Standard Mail, or Nonprofit Standard Mail, letters and/or flats volume mailed by the participant through the participant's own permit imprint advance account, precanceled stamp permit(s), or postage meter permit(s);

b. Standard Mail, or Nonprofit Standard Mail, letters and/or flats volume prepared by a mail service provider, when entered through a permit owned by the participant;

c. Standard Mail, or Nonprofit Standard Mail, letters and/or flats pieces mailed through a mail service provider's permit, only when the pieces can be identified as being prepared for the participant and when the applicant's prior mailing activity through the mail service provider's permit can be validated.

2.6 Incentive Program Credits

Approved participants demonstrating an increase in Standard Mail, or Nonprofit Standard Mail, letters and flats volume above their threshold level qualify for a credit to a single designated permit imprint advance deposit account or Centralized Account Payment System (CAPS) account as follows:

a. The total postage paid for Standard Mail, or Nonprofit Standard Mail, letters and flats recorded during the program will be identified for each participant.

b. The total postage paid during the program period will be divided by the total number of recorded pieces to generate the average price per piece for the program period.

c. Participants will receive a credit in the amount of thirty percent (30%) of the average price per piece applied to the total number of mailpieces (less any adjustments resulting from the mailing activity review under 2.7), for the incremental volume above their threshold level, recorded during the program period.

2.7 Mailing Activity Review

Mailing activity by participants will be reviewed in the calendar months preceding and following the end of the program. The qualifying volume recorded for participants may be adjusted in accordance with the following:

a. For the 2010 Standard Mail Incentive Program, each participant's June 2010 and October 2010 expected volume will be defined as five percent (5%) above (or 105% of) the total consolidated volume of Standard Mail letters and/or flats recorded for the participant in June 2009 and October 2009 respectively.

b. Each participant's *actual* June 2010 and October 2010 volume will be compared to their respective June 2010 and October 2010 expected volume.

c. Participants demonstrating a shortfall in volume to either their June 2010 or October 2010 expected volumes will have that shortfall deducted from the number of mailpieces eligible for an incentive credit within the program regardless of any surplus demonstrated in the expected volume threshold of the other month.

* * * * *

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 2010–7896 Filed 4–7–10; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2009–0712; FRL–9134–9]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Reasonable Further Progress Plan, 2002 Base Year Inventory, Reasonably Available Control Measures, Contingency Measures, and Transportation Conformity Budgets for the Delaware Portion of the Philadelphia 1997 8-Hour Ozone Moderate Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the Delaware State Implementation Plan (SIP) to meet the reasonable further progress (RFP) requirements of the Clean Air Act (CAA) for the Delaware portion of the Philadelphia 1997 8-hour ozone moderate nonattainment area. EPA is also approving the RFP plan's motor vehicle emissions budgets (MVEBs), the 2002 base year emissions inventory, contingency measures, and the reasonably available control measure (RACM) analysis associated with this revision. EPA is approving the SIP revision because it satisfies the requirements for the 1997 8-hour ozone national ambient air quality standard (NAAQS) nonattainment areas classified as moderate and demonstrates further progress in reducing ozone precursors. EPA is approving the SIP revision pursuant the CAA and EPA's regulations.

DATES: *Effective Date:* This final rule is effective on May 10, 2010.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2009–0712. All documents in the docket are listed in the *http://www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, *i.e.,* 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 either electronically through *http://www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania

19103. Copies of the State submittal are available at the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, or by e-mail at *quinto.rose@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On January 15, 2010 (75 FR 2452), EPA published a notice of proposed rulemaking (NPR) for the State of Delaware. The NPR proposed approval of the 15 percent RFP plan, the RFP plan's 2008 MVEBs, the 2002 base year emissions inventory, contingency measures, and the RACM analysis for the Delaware portion of the Philadelphia 1997 8-hour ozone moderate nonattainment area. The formal SIP revision was submitted by the Delaware Department of Natural Resources and Environmental Control on June 13, 2007.

II. Summary of SIP Revision

The SIP revision addresses emissions inventory, RACM, contingency measures and the RFP requirements for the 1997 8-hour ozone NAAQS for the Delaware portion of the Philadelphia moderate nonattainment area. The SIP revision also establishes MVEBs for 2008. Other requirements of the SIP revision and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

III. Final Action

EPA is approving the Delaware SIP revision that meets the RFP requirements of the CAA for the Delaware portion of the Philadelphia 1997 8-hour ozone moderate nonattainment area. EPA is also approving the RFP plan's MVEBs, the 2002 base year emissions inventory, contingency measures, and RACM analysis associated with the SIP revision. The SIP revision satisfies the requirements for the 1997 8-hour ozone NAAQS nonattainment areas classified as moderate and demonstrates further progress in reducing ozone precursors.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 7, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action pertaining to the Delaware's RFP Plan, 2002 base year emissions inventory, contingency measures, RACM analysis, and transportation conformity budgets, may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 25, 2010.

W.C. Early,

Acting Regional Administrator, EPA Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart I—Delaware

■ 2. In § 52.420, the table in paragraph (e) is amended by adding at the end of the table, the entries for Reasonable Further Progress Plan (RFP), Reasonably Available Control Measures and Contingency Measures; 2002 Base Year Inventory for VOC, NO_X and CO; and 2008 RFP Transportation Conformity Budgets for the Delaware Portion of the Philadelphia 1997 8-hour Ozone Moderate Nonattainment Area. The amendments read as follows:

§ 52.420 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
Reasonable Further Progress Plan (RFP), Reasonably Available Control Measures, and Contingency Measures.	Delaware portion of the Philadelphia 1997 8-hour ozone moderate nonattainment area.	6/13/07	4/8/10 *[Insert page number where the document begins]*.	
2002 Base Year Inventory for VOC, NO_X, and CO.	Delaware portion of the Philadelphia 1997 8-hour ozone moderate nonattainment area.	6/13/07	4/8/10 *[Insert page number where the document begins]*.	
2008 RFP Transportation Conformity Budgets.	Delaware portion of the Philadelphia 1997 8-hour ozone moderate nonattainment area.	6/13/07	4/8/10 *[Insert page number where the document begins]*.	

■ 3. Section 52.423 is amended by revising the section heading and by adding paragraph (b) to read as follows:

§ 52.423 Base Year Emissions Inventory.

* * * * *

(b) EPA approves as a revision to the Delaware State Implementation Plan the 2002 base year emissions inventories for the Delaware portion of the Philadelphia 1997 8-hour ozone moderate nonattainment area submitted by the Secretary of the Department of Natural Resources and Environmental Control on June 13, 2007. This submittal consists of the 2002 base year point, area, non-road mobile, and on-road mobile source inventories in area for the following pollutants: Volatile organic compounds (VOC), carbon monoxide (CO) and nitrogen oxides (NO_X).

■ 4. Section 52.426 is amended by adding paragraphs (g) and (h) to read as follows:

§ 52.426 Control strategy plans for attainment and rate-of-progress: Ozone.

* * * * *

(g) EPA approves revisions to the Delaware State Implementation Plan consisting of the 2008 reasonable further progress (RFP) plan, reasonably available control measures, and contingency measures for the Delaware portion of the Philadelphia 1997 8-hour ozone moderate nonattainment area submitted by the Secretary of the Department of Natural Resources and Environmental Control on June 13, 2007.

(h) EPA approves the following 2008 RFP motor vehicle emissions budgets (MVEBs) for the Delaware portion of the Philadelphia 1997 8-hour ozone moderate nonattainment area submitted by the Secretary of the Department of Natural Resources and Environmental Control on June 13, 2007:

TRANSPORTATION CONFORMITY EMISSIONS BUDGETS FOR THE DELAWARE PORTION OF THE PHILADELPHIA AREA FOR THE 2008 RATE OF PROGRESS PLAN

County	2008 Emissions (tons per day)		Effective date of adequacy determination or SIP approval
	VOC	NO_X	
Kent	4.14	9.68	January 5, 2009, (73 FR 77682), published December 19, 2008.
New Castle	10.61	21.35	
Sussex	7.09	12.86	
State Total	21.84	43.89	

[FR Doc. 2010–7878 Filed 4–7–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2009–0731; FRL–9129–7]

Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Particulate Matter Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Wisconsin updated its state ambient air quality standards rules to match the current Federal standards. The updates were made to the particulate matter standards by adding fine particulate standards and revoking the state's course particulate standards. EPA revised its particulate matter standards in October 2006 by strengthening the 24-hour fine particulate standard and revoking the annual standard for course particulate. EPA is approving the revisions to the Wisconsin State Implementation Plan (SIP) as requested by the state on September 11, 2009.

DATES: This direct final rule will be effective June 7, 2010, unless EPA receives adverse comments by May 10, 2010. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2009–0731, by one of the following methods:

1. *http://www.regulations.gov:* Follow the online instructions for submitting comments.
2. *E-mail: compher.michael@epa.gov.*
3. *Fax:* (312) 692–2511.
4. *Mail:* Michael Compher, Acting Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Michael Compher, Acting Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2009–0731. 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.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Matt Rau, Environmental Engineer, at (312) 886–6524 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6524, *rau.matthew@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is the background for this action?
II. What is EPA's analysis of the revision?
III. What are the environmental effects of this action?
IV. What action is EPA taking?
V. Statutory and Executive Order Reviews

I. What is the background for this action?

Wisconsin requested a revision to its SIP on September 11, 2009. The request is to update the particulate matter ambient air quality standards. The particulate matter standards were revised to match the 2006 Federal standards. On October 17, 2006, EPA revised its particulate matter ambient air quality standards, strengthening the 24-hour fine particulate ($PM_{2.5}$) standard and retaining the annual $PM_{2.5}$ standard. EPA also revoked the annual standard for coarse particulate matter (PM_{10}) because available evidence did not suggest a link between long term PM_{10} exposure and health problems. The 24-hour PM_{10} standard remains in place.

II. What is EPA's analysis of the revision?

Wisconsin revised chapters NR 404 and 484 of the Wisconsin Administration Code. Wisconsin added the definition of $PM_{2.5}$ and the $PM_{2.5}$ ambient air quality standards to its rules to be consistent with current Federal standards. Wisconsin also removed the annual PM_{10} standard.

The revisions made by Wisconsin are in accordance with the current Federal $PM_{2.5}$ and PM_{10} standards. EPA strengthened the particulate matter ambient air quality standards in 2006 to reflect the latest scientific data for protecting human health, and Wisconsin has adopted the same standards to keep its ambient air quality standards current with the Federal standards.

III. What are the environmental effects of this action?

This action incorporates the Federal $PM_{2.5}$ and PM_{10} ambient air quality standards into the Wisconsin SIP, including the more stringent standard for 24-hour $PM_{2.5}$ standard. The current Federal standards are effective and enforceable nationwide. The revisions add clarity for Wisconsin sources and stakeholders, as it updates the PM_{10} standards and adds the $PM_{2.5}$ standards to the state rules.

Particulate matter interferes with lung function when inhaled. Exposure to particulates can cause heart and lung disease. Particulate matter also aggravates asthma. Airborne particulate is the main source of haze that causes a reduction in visibility. Particulate matter is also deposited on the ground and in the water, changing nutrient and chemical balances.

IV. What action is EPA taking?

EPA is approving revisions to the Wisconsin SIP. Wisconsin revised chapters NR 404 and 484 of the Wisconsin Administration Code. In chapter NR 404, the state removed the annual PM_{10} standard, added the definition of $PM_{2.5}$, and added the 2006 $PM_{2.5}$ standards. Wisconsin incorporated by reference the Code of Federal Regulations (CFR) monitoring requirements into chapter NR 484 that correspond to the chapter NR 404 revisions. Specifically, Wisconsin incorporated 40 CFR part 50 appendices K, L, and M and 40 CFR part 53 by reference into chapter NR 484.

We are publishing this action without prior proposal because we view this as

a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective June 7, 2010 without further notice unless we receive relevant adverse written comments by May 10, 2010. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective June 7, 2010.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 7, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register,** rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter.

Dated: March 11, 2010.

Walter W. Kovalick Jr.,

Acting Regional Administrator, Region 5.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart YY—Wisconsin

■ 2. Section 52.2570 is amended by adding paragraph (c)(121) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(121) On September 11, 2009, the Wisconsin Department of Natural Resources submitted a State Implementation Plan revision request. The state's ambient air quality standards were revised to match the 2006 Federal ambient air quality standards for particulate matter (PM_{10} and $PM_{2.5}$).

(i) *Incorporation by reference.* The following sections of the Wisconsin Administrative Code are incorporated by reference:

(A) NR 404.02 Definitions. NR 404.02(4e) "$PM_{2.5}$" as published in the Wisconsin Administrative Register, on September 30, 2009, No. 645, effective October 1, 2009.

(B) NR 404.04 Ambient Air Quality Standards. NR 404.04(8) "PM_{10}: PRIMARY AND SECONDARY STANDARDS." and NR 404.04(9) "$PM_{2.5}$:

PRIMARY AND SECONDARY STANDARDS" as published in the Wisconsin Administrative Register, on September 30, 2009, No. 645, effective October 1, 2009.

(ii) *Additional material.*

(A) NR 484.03 Code of federal regulations. NR 484.03(5) in Table 1 as published in the Wisconsin Administrative Register, on September 30, 2009, No. 645, effective October 1, 2009.

(B) NR 484.04 Code of federal regulations appendices. NR 484.04(6), (6g), and (6r) in Table 2, as published in the Wisconsin Administrative Register,

on September 30, 2009, No. 645, effective October 1, 2009.

* * * * *

[FR Doc. 2010–7968 Filed 4–7–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2007–0993; FRL–9134–8]

Approval and Promulgation of Implementation Plans; New Mexico; Interstate Transport of Pollution

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of New Mexico for the purpose of addressing the "good neighbor" provisions of the Clean Air Act (CAA) section 110(a)(2)(D)(i) for the 1997 ozone standards and the 1997 $PM_{2.5}$ standards. This SIP revision satisfies a portion of the State of New Mexico's obligation to submit a SIP revision that demonstrates that adequate provisions are in place to prohibit air emissions from adversely affecting another state's air quality through interstate transport. This rulemaking action is being taken under section 110 of the CAA and addresses one element of CAA section 110(a)(2)(D)(i), which pertains to prohibiting air pollutant emissions from within New Mexico from significantly contributing to nonattainment of the ozone and $PM_{2.5}$ NAAQS in any state.

DATES: This direct final rule will be effective June 7, 2010 without further notice unless EPA receives relevant adverse comments by May 10, 2010. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2007–0993, by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.*
- Follow the online instructions for submitting comments.
- *EPA Region 6* "*Contact Us*" *Web site: http://epa.gov/region6/r6coment.htm.* Please click on "6PD (Multimedia)" and select "Air" before submitting comments.
- *E-mail:* Mr. Guy Donaldson at *donaldson.guy@epa.gov.* Please also send a copy by e-mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- *Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), at fax number 214–665–7263.
- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- *Hand or Courier Delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays, and not on legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket No. EPA–R06–OAR–2007–0993. 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.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The state submittal is also available for public inspection during official business hours, by appointment, at the New Mexico Environment Department, Air Quality Bureau, 1190 St. Francis Drive, Santa Fe, New Mexico 87502.

FOR FURTHER INFORMATION CONTACT: Emad Shahin, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–6717; fax number (214) 665–7263; e-mail address *shahin.emad@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we," "us," or "our" is used, we mean the EPA.

Outline

I. What Action Is EPA Taking?
II. What Is a SIP?
III. What Is the Background for This Action?
IV. What Is EPA's Evaluation of the State's Submission?
V. Final Action
VI. Statutory and Executive Order Reviews

I. What Action Is EPA Taking?

We are approving a submission from the State of New Mexico demonstrating that New Mexico has adequately addressed one of the required elements of the CAA section 110(a)(2)(D)(i), the element that prohibits air pollutant emissions from sources within a state from significantly contributing to nonattainment of the relevant NAAQS in any other state. We have determined that emissions from sources in New Mexico do not significantly contribute to nonattainment of the 1997 ozone standards or of the 1997 $PM_{2.5}$ standards in any other state. The remaining three

elements of section 110(a)(2)(D) are SIPs addressing: (i) Interference with the maintenance of the NAAQS in any other state; (ii) interference with measures required to prevent significant deterioration of air quality in any other state; and (iii) interference with measures required to protect visibility in any other state. The aforementioned 3 elements will be evaluated and addressed in future rulemakings.

EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are received. This rule will be effective on June 7, 2010 without further notice unless we receive adverse comment by May 10, 2010. If we receive adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

II. What Is a SIP?

Section 110(a) of the CAA requires each state to develop a plan that provides for the implementation, maintenance, and enforcement of the national ambient air quality standards (NAAQS). EPA establishes NAAQS under section 109 of the CAA. Currently, the NAAQS address six criteria pollutants: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

The plan developed by a state is referred to as the state implementation plan (SIP). The content of the SIP is specified in section 110 of the CAA, other provisions of the CAA, and applicable regulations. SIPs can be extensive, containing state regulations or other enforceable measures and various types of supporting information, such as emissions inventories, monitoring networks, and modeling demonstrations.

A primary purpose of the SIP is to provide the air pollution regulations, control strategies, and other means or techniques developed by the state to ensure that the ambient air within that state meets the NAAQS. However, another important aspect of the SIP is to ensure that emissions from within the state do not have certain prohibited impacts upon the ambient air in other states through interstate transport of pollutants. This SIP requirement is specified in section 110(a)(2)(D). Pursuant to that provision, each state's SIP must contain provisions adequate to prevent, among other things, emissions that significantly contribute to violations of the NAAQS in any other state.

States are required to update or revise SIPs under certain circumstances. One such circumstance is EPA's promulgation of a new or revised NAAQS. Each state must submit these revisions to EPA for approval and incorporation into the federally-enforceable SIP.

III. What Is the Background for This Action?

On July 18, 1997, EPA promulgated new standards for 8-hour ozone and fine particulate matter ($PM_{2.5}$). This action is being taken in response to the July 18, 1997 revision to the 8-hour ozone standards and $PM_{2.5}$ standards. This action does not address the requirements for the 2006 $PM_{2.5}$ standards or the 2008 8-hour ozone standards; those standards will be addressed in a later action.

Section 110(a)(1) of the CAA requires states to submit SIPs to address a new or revised NAAQS within 3 years after promulgation of such standards, or within such shorter period as EPA may prescribe. Section 110(a)(2) lists the elements that such new SIPs must address, as applicable, including section 110(a)(2)(D)(i) which pertains to interstate transport of certain emissions. On August 15, 2006, EPA issued its "Guidance for State Implementation Plan (SIP) Submission to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards" ("Guidance") for SIP submissions that states should use to address the requirements of section 110(a)(2)(D)(i). EPA developed this guidance to make recommendations to states for making submissions to meet the requirements of section 110(a)(2)(D) for the 1997 8-hour ozone standards and 1997 $PM_{2.5}$ standards.

On September 17, 2007, we received a SIP revision from the State of New Mexico to address the requirements of section 110(a)(2)(D)(i) for both the 1997 8-hour ozone standards and 1997 $PM_{2.5}$ standards. This SIP submittal follows EPA's Guidance. As identified in the Guidance, the "good neighbor" provisions in section 110(a)(2)(D)(i) require each State to submit a SIP that prohibits emissions that adversely affect another state in the ways contemplated in the statute. Section 110(a)(2)(D)(i) contains four distinct requirements related to the impacts of interstate transport; however, in this rulemaking EPA is addressing only the requirement that pertains to preventing sources in the state from emitting pollutants in amounts which will contribute significantly to nonattainment of the 1997 8-hour ozone standards and 1997 $PM_{2.5}$ standards in any other state. In its submission, the State of New Mexico indicated that its current SIP is adequate to prevent such significant contribution to nonattainment in any other state, and thus no additional emissions controls are necessary at this time to alleviate interstate transport.

IV. What Is EPA's Evaluation of the State's Submission?

In accordance with EPA's Guidance, the State of New Mexico has made a SIP submission addressing interstate transport for the 1997 8-hour ozone standards and 1997 $PM_{2.5}$ standards. The State has made a showing that emissions from New Mexico do not significantly contribute to violations of either NAAQS in other states by two different means. For $PM_{2.5}$ the State has relied primarily upon technical analysis performed by EPA in connection with another regional rulemaking that addresses interstate transport. For ozone, the State has relied primarily on additional modeling to address the extent of interstate transport. We believe that the submission adequately establishes that emissions from New Mexico do not significantly contribute to violations of either NAAQS in other states, for the reasons explained below.

To support a determination of no "significant contribution" for the 1997 $PM_{2.5}$ standards, the state has relied on EPA's Clean Air Interstate Rule (CAIR) [1] analysis. This approach is consistent with EPA's Guidance to states for this SIP submission. In CAIR, EPA evaluated which states significantly contribute to violations of the 1997 8-hour ozone standards and 1997 $PM_{2.5}$ standards in other states. Based upon its analysis, EPA did not include New Mexico in the CAIR region. In the CAIR preamble, EPA provided its rationale for the exclusion

[1] See, "Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NO_X SIP Call; Final Rule," 70 FR 25162 (May 12, 2005). Information regarding CAA section 110(a)(2)(D) SIPs can be found beginning of page 25263.

of the western states, including New Mexico, from further consideration of transport for 8-hour ozone and $PM_{2.5}$ and the requirements of CAIR.

The "Technical Support Document for the Interstate Air Quality Rule Air Quality Modeling Analysis", January 2004 (available at *http://www.epa.gov/cair/technical.html*) contains documentation of the modeling used to support CAIR. This modeling included an analysis of the maximum impact of emissions from States without CAIR controls applied on areas projected in $PM_{2.5}$ nonattainment in 2010. A maximum impact level of 0.15 μg/m³ was considered significant for this analysis (**Note:** In the final CAIR EPA changed the maximum impact level for this significance test to 0.20 μg/m³). EPA's modeling indicated that the maximum impact from emissions from sources in New Mexico on any projected nonattainment area in another state was 0.03 μg/m³. This value is 20% of the significant impact level that EPA used in the CAIR proposal, and therefore EPA determined that emissions from the state of New Mexico do not significantly contribute to pollutant levels in any area projected to be nonattainment of the $PM_{2.5}$ standard in that analysis.

CAIR was remanded by the U.S. Court of Appeals for the District of Columbia, and EPA is currently in the process of developing a replacement rule to address interstate transport for the 1997 8-hour ozone and 1997 $PM_{2.5}$ standards. We do not believe that the CAIR remand affects New Mexico's reliance on EPA's CAIR analysis for the purpose of evaluating New Mexico's $PM_{2.5}$ impacts on other states. Specifically, EPA's modeling was conducted without including the impact of any CAIR controls, and thus the evaluation is not impacted by any uncertainty in the implementation of CAIR controls due to the remand. Also, despite remand of the CAIR rules, EPA's reliance on the maximum impact level of 0.20 μg/m³ as the cutoff for the inclusion of a state in the CAIR region was upheld by the court. Therefore, with respect to the 1997 $PM_{2.5}$ standards, we believe that New Mexico's submission adequately establishes that sources in that state are not significantly contributing to violations of that NAAQS in any other state.

To support a determination of no "significant contribution" for the 8-hour ozone NAAQS, New Mexico could not rely upon EPA's CAIR analysis because western states including New Mexico were not included in the area modeled for ozone. Instead, New Mexico provided an additional modeling analysis of the impact of emissions from the state on projected 8-hour ozone nonattainment in downwind states. We note that modeling is not necessarily required to support this type of SIP submission, but this approach is consistent with EPA's Guidance to states for this SIP submission.

The modeling relied upon by the state is described in greater detail in its technical support document in the submission, and is available at *http://www.regulations.gov,* Docket No. EPA–R06–OAR–2007–0993. We note that EPA assisted the state with this analysis, including the development of the modeling demonstration. In order to develop a model scenario that could evaluate New Mexico's impacts, the state and EPA determined that it was appropriate to rely on data developed by the Central Regional Air Planning Association (CENRAP). Modeling was conducted using a 2002 third quarter CENRAP modeling dataset that included New Mexico in the modeling domain. While a more recent dataset might be assumed to be more appropriate to support this action, a 2010 dataset was not available from CENRAP. However, we believe that the use of the 2002 dataset is adequate to evaluate the degree of contribution of New Mexico emissions sources to violations of the 1997 8-hour ozone standards. Because the analysis is based on year 2002 emissions, we believe it is a conservative estimate of potential transport impacts in 2010, as New Mexico's emissions have been decreasing since 2002 due to various recent federal control programs (including On-Road and Nonroad reductions). This trend is confirmed by available 2005 inventory. In other words, if data from 2002 establish that there is no significant contribution to violations of the 1997 8-hour ozone standards in other states, then New Mexico sources would have even lower impacts currently and consequently no significant contribution.

In the Guidance, we recommended a number of ways that states might elect to evaluate whether or not there is significant contribution, and we suggested that states might consider assessing the potential for contribution using assumptions similar to those used by EPA in CAIR. The state's analysis considered three factors comparable to those used by EPA as screening criteria in determining significance for states in CAIR: (a) The magnitude of the contribution, (b) the frequency of the contribution, and (c) the relative amount of contribution. The additional modeling yielded consistent results showing New Mexico emissions do not contribute significantly to 8-hour ozone nonattainment in any of the areas analyzed. New Mexico's highest overall contribution to total nonattainment for any nonattainment area at the time of the modeling was for Dallas/Fort Worth. New Mexico's highest impact on the Dallas/Fort Worth area was a daily average contribution of 0.4%, with a contribution average of 0.4 ppb. By EPA's own metrics (as established in CAIR and upheld by the court), these impacts are considered to be small and infrequent and well below screening criteria established at 1% and 2 ppb, respectively. Moreover, not a single metric of the three contribution factors was found to be above the significance threshold established by EPA for any of the downwind counties. For more details please see the document titled "Modeling Data and Report for New Mexico from EPA Regions 6 and 7" that is included in the docket materials for this action.

At the time the modeling was performed, Denver's air quality was meeting the standard. (The 2004–2006 8-Hour Ozone Design Value (DV) was 81 ppb). Therefore the state did not evaluate New Mexico's ozone impacts on Denver. Denver had a very high ozone season in 2007 that temporarily pushed the area into nonattainment. The preliminary 2007–2009 DV (awaiting final data validation) is 82 ppb so the area appears to now be back in attainment. The preliminary 2007–2009 DV is based upon 4th High values of 90 ppb in 2007, 79 ppb in 2008, and 79 ppb in 2009 (preliminary). With the last two 4th Highs of 79 ppb, Denver would have to monitor a 4th High value of 97 ppb in 2010 to go back into nonattainment for the period 2008–2010. Denver has not had a 4th High value of more than 92 ppb in the last 15 years, so it is unlikely that Denver will be in nonattainment at the end of the 2010 ozone season for the 84 ppb standard. Since based on preliminary 2007–2009 data, Denver is attaining the standard, New Mexico's emissions should not be considered as contributing to nonattainment in Denver.

With respect to the 1997 8-hour ozone standards, we believe that New Mexico's submission adequately establishes that sources in that state are not significantly contributing to violations of that NAAQS in any other state. As noted previously, EPA will be acting on the other elements of Section 110(a)(2)(D)(i) in separate rulemakings.

V. Final Action

We are approving revisions to the New Mexico SIP which adequately demonstrates that air pollutant emissions from sources within New

Mexico do not add significantly to nonattainment of the relevant NAAQAS on any other state.

Based on the information provided by NMED in the technical demonstration, it has sufficiently been demonstrated that emissions from New Mexico do not significantly contribute to downwind nonattainment. Thus, EPA concludes that the New Mexico SIP complies with CAA section 110(a)(2)(D)(i)(I).

VI. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 7, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 30, 2010.

Al Armendariz,

Regional Administrator, Region 6.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart GG—New Mexico

■ 2. The second table in § 52.1620(e) entitled "EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the New Mexico SIP" is amended by adding an entry to the end to read as follows:

§ 52.1620 Identification of plan.

* * * * *

(e) * * *

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE NEW MEXICO SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/effective date	EPA approval date	Explanation
* * *	*	*	*	*
CAA 110(a)(2)(D)(i)(I) SIP—Interstate Transport.	New Mexico	09/17/07	04/08/10 [*insert FR page number where the document begins*].	

[FR Doc. 2010–7868 Filed 4–7–10; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 36 and 54

[WC Docket No. 05–337, CC Docket No. 80–286; FCC 10–44]

High-Cost Universal Service Support, Jurisdictional Separations, and Coalition for Equity in Switching Support Petition for Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission addresses an inequitable asymmetry in its current rules governing the receipt of universal service high-cost local switching support (LSS) by small incumbent local exchange carriers (LECs). Since the adoption of the current rules, incumbent LEC lines have begun to decrease, and, as a result of the one-way rule, many small LECs that have lost lines receive less support than other LECs with a similar number of lines that face nearly identical circumstances. By modifying the Commission's rules to permit incumbent LECs that lose lines to receive additional LSS when they cross a threshold, the Commission will provide LSS to all small LECs on the same basis. The Commission also dismisses the petition for reconsideration filed by the Coalition for Equity in Switching Support in the jurisdictional separations freeze proceeding.

DATES: Effective April 8, 2010.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Order in WC Docket No. 05–337 and CC Docket No. 80–286, FCC 10–44, adopted March 17, 2010, and released March 18, 2010. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via the Internet at *http://www.bcpiweb.com.* It is also available on the Commission's Web site at *http://www.fcc.gov.*

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

I. Introduction

1. In the Report and Order, we address an inequitable asymmetry in the Commission's current rules governing the receipt of universal service high-cost local switching support (LSS) by small incumbent local exchange carriers (LECs). Under the current rules, which were adopted by the Commission at a time when incumbent LEC lines had largely only increased over time, the amount of LSS that an incumbent LEC may receive decreases when its line counts increase above a particular threshold, but does not increase when its line counts decrease below that same threshold. Since the adoption of these rules, incumbent LEC lines have begun to decrease, and, as a result of the one-way rule, many small LECs that have lost lines receive less support than other LECs with a similar number of lines that face nearly identical circumstances. By modifying our rules to permit incumbent LECs that lose lines to receive additional LSS when they cross a threshold, we will provide LSS to all small LECs on the same basis. We emphasize that nothing in the Report and Order is intended to address the long-term role of LSS in the Commission's high-cost universal service policies, which we are considering as part of comprehensive universal service reform. We also dismiss the petition for reconsideration filed by the Coalition for Equity in Switching Support in the jurisdictional separations freeze proceeding. The issues raised in that petition are essentially the same as those raised in its petition for clarification. This decision and the *Coalition Petition Order and LSS NPRM* wholly address those issues, and therefore we dismiss the petition for reconsideration as moot.

II. Discussion

2. We conclude that our rules should be modified to permit an incumbent LEC's DEM weighting factor to increase as well as decrease when its line counts cross one of the thresholds provided in our rules. As described, we find that amending the rules will ensure that similarly situated incumbent LECs will be treated similarly under our rules. Although this will increase the total amount of high-cost universal service support disbursed, we find that the increase will not have a significant effect on the overall size of the universal service fund. We emphasize that this relatively minor change to existing rules is not intended to reflect or prejudge our consideration of LSS as part of any comprehensive universal service reform.

3. Based on the record in this proceeding, we find no basis for continuing to provide different amounts of LSS to otherwise similarly situated incumbent LECs solely because one incumbent LEC had previously exceeded a threshold in our rules but the other had not. The LSS mechanism's existence and design are based on the relative inability of small incumbent LECs to achieve economies of scale in switching costs. A small incumbent LEC that has lost a significant number of lines, causing it to cross a DEM weighting threshold, suffers the same lack of economies of scale. We find that such a carrier should, by the logic underpinning the LSS mechanism, receive support in the same manner as a small incumbent LEC with a line count that never crossed a threshold. There is no evidence that the Commission, at the time it adopted the LSS rules, considered the possibility that small incumbent LECs would lose lines and the effect of line loss on LSS. Indeed, as the Coalition has noted, at that time incumbent LEC lines had grown, almost without exception, for more than 50 years.

4. The Coalition has provided evidence that failing to provide the higher level of LSS has caused or threatens to cause small incumbent LEC some hardship. Many affected carriers reportedly crossed above an access line threshold initially because their subscribers took second lines to access dial-up Internet service, and decreased below the threshold as the carriers deployed, and those same customers adopted, advanced services. We find that our current rules that reduce a carrier's LSS when line counts increase without a corresponding increase in LSS when line counts decrease have caused hardship for some small incumbent LEC and may affect the provision or affordability of service to customers.

5. We also find that amending our rules as proposed would not create undue growth in universal service support that would threaten the fund. The National Exchange Carrier Association (NECA), which collects cost and line count data for many of the carriers that could be affected by the

DEM weighting one-way rule, estimates that changing the one-way rule would increase LSS by approximately $27 million per year. The Coalition estimates that the increase would be only $19 million, based on support estimates for 2009. Using NECA's larger estimate would create an increase of approximately 0.3 percent to the total universal service fund, and about 0.6 percent to the high-cost portion of the fund. Although we do not take lightly any increase to the amount of universal service support disbursed, we find that this change will not have a significant impact on the overall size of the fund.

6. CTIA argues that the Commission should not adopt these rule changes because modern switching technology is less expensive and more scalable than traditional circuit switches. We do not take any position on the substance of these arguments, but note that, to the extent they apply, they apply broadly to the entire LSS mechanism and not merely to the rule changes we adopt here. For that reason, we find that CTIA's arguments would be better raised and addressed in a comprehensive universal service reform proceeding. CTIA also argues that the current record fails to address how the proposed change to LSS addresses the principle of affordability in section 254 of the Act. As discussed above, commenters have provided evidence that the rule changes will have minimal effect on the overall size of the universal service fund. Moreover, as stated above, there is record evidence indicating that the current rule has caused some carriers hardship and may impact the provision or affordability of service to customers. In addition, absent these rule changes, similarly situated incumbent LECs will continue to receive disparate amounts of LSS. Therefore, we find that adoption of the rule changes comports with the requirements of the Act that consumers in high-cost areas have access to reasonably comparable services at reasonably comparable rates to those available to consumers in other areas of the country.

7. We conclude that the rule changes we adopt in this report and order should be implemented for the full 2010 LSS funding year. Several parties ask that we make the rule changes effective for 2008 and 2009 because true-ups for those years have yet to occur. We decline to do so. Generally, rules adopted by administrative agencies may be applied prospectively only. The 2008 and 2009 funding years have ended. While it is true that 2008 and 2009 LSS true-ups have yet to be performed, that does not change the fact that the funding periods have passed, and thus, application of the new methodology to those years would be improper retroactive rulemaking. The Coalition's argument that the Commission has made similar changes to future support based on data from earlier periods in the high-cost loop support mechanism is inapplicable in the LSS context. Under the high-cost loop support mechanism, support payments are made based on historical data. For example, 2010 high-cost loop support is calculated based on 2008 cost and loop data. Thus, a similar type of rule change to the high-cost loop support mechanism would necessarily incorporate past year data due to the different calculation and data method used. That is not the case with LSS, which uses projected data for the current funding period. Accordingly, we decline to apply these rule changes to prior LSS funding years. Consistent with comments made by CTIA, however, we modify our proposed rules to make the implementation period explicit in the text of the rules. Additionally, to ensure that ETCs receive disbursements for the current support year as soon as possible under the new rules, we find good cause for the Report and Order to be effective April 8, 2010. Similarly, we grant incumbent LECs that are affected by these rule changes a waiver of the October 1, 2009 deadline by which incumbent LECs must file their 2010 projected data with USAC pursuant to section 54.301(b) of the Commission's rules, and by which states must certify that affected ETCs' support will be used only for the provision, maintenance and upgrading of facilities and services for which the support is intended, if the certifications were not previously filed. Such incumbent LECs and states must file their projected data and certifications with USAC within 60 days of the effective date of this report and order.

8. Finally, we dismiss the Coalition's petition for reconsideration of the *2009 Separations Freeze Extension Order* as moot. Specifically, the Coalition asked the Commission to reconsider its decision not to modify the one-way rule when it extended the separations freeze to June 30, 2010. We find that the issues raised in the Coalition's separations reconsideration petition are essentially the same as those raised in its petition for clarification and are wholly addressed in the *Coalition Petition Order and LSS NPRM* and in this report and order.

III. Procedural Matters

A. Paperwork Reduction Analysis

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

B. Final Regulatory Flexibility Act Certification

10. The Regulatory Flexibility Act of 1980, as amended (RFA) requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that "the rule will not have a significant economic impact on a substantial number of small entities." The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

11. In this document, the Commission modifies its LSS rules. Pursuant to the "one-way rule," a small incumbent LEC receives less LSS when the number of access lines it served increased above certain thresholds, but does not receive more LSS when the number of access lines it served decreased below the same thresholds. In this document, the Commission changes its rules to provide LSS based on the incumbent LEC's current period line counts without regard for whether the LEC's lines had ever exceeded a line-count threshold. This rule change can only provide an incumbent LEC with more universal service support and the administrative burdens associated with complying with the Commission's rules will not change. Therefore, we certify that the requirements of this report and order will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the report and order, including a copy of this final certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, this document and this certification will be sent to the Chief Counsel for Advocacy

of the Small Business Administration, and will be published in the **Federal Register.**

C. Congressional Review Act

12. The Commission will send a copy of the Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

List of Subjects

47 CFR Part 36

Reporting and recordkeeping requirements, Telecommunications, Telephone.

47 CFR Part 54

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

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 36 and 54 as follows:

PART 36—JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES

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

Authority: 47 U.S.C. 151, 154(i), 154(j), 205, 221(c), 254, 403, and 410 unless otherwise noted.

■ 2. Section 36.125 is amended by revising paragraph (j) to read as follows:

§ 36.125 Local switching equipment—Category 3.

* * * * *

(j) If the number of a study area's access lines increases such that, under § 36.125(f), the weighted interstate DEM factor for 1997 or any successive year would be reduced, that lowered weighted interstate DEM factor shall be applied to the study area's 1996 unweighted interstate DEM factor to derive a new local switching support factor. If the number of a study area's access lines decreases or has decreased such that, under § 36.125(f), the weighted interstate DEM factor for 2010 or any successive year would be raised, that higher weighted interstate DEM factor shall be applied to the study area's 1996 unweighted interstate DEM factor to derive a new local switching support factor.

PART 54—UNIVERSAL SERVICE

■ 3. The authority citation continues to read as follows:

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

■ 4. Section 54.301 is amended by revising paragraph (a)(2)(ii) to read as follows:

§ 54.301 Local switching support.

(a) * * *

(2) * * *

(ii) If the number of a study area's access lines increases such that, under § 36.125(f) of this chapter, the weighted interstate DEM factor for 1997 or any successive year would be reduced, that lowered weighted interstate DEM factor shall be applied to the study area's 1996 unweighted interstate DEM factor to derive a new local switching support factor. If the number of a study area's access lines decreases or has decreased such that, under § 36.125(f) of this chapter, the weighted interstate DEM factor for 2010 or any successive year would be raised, that higher weighted interstate DEM factor shall be applied to the study area's 1996 unweighted interstate DEM factor to derive a new local switching support factor.

* * * * *

[FR Doc. 2010–8010 Filed 4–7–10; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–325; DA 10–208]

Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Media Bureau adopts changes in the digital audio broadcasting (DAB) rules to permit FM radio stations to voluntarily increase FM hybrid digital effective radiated power (ERP), and implements interference mitigation and remediation procedures to resolve promptly allegations of digital interference to authorized full-service FM analog stations resulting from an FM digital ERP increase undertaken pursuant to the procedures adopted. The increase in FM hybrid digital ERP will allow an FM station's digital coverage area to more closely replicate its licensed analog coverage area, and the interference mitigation and remediation procedures will make certain that permissible increases in FM digital ERP do not adversely affect existing FM analog operations. These rule changes balance the immediate need for improved FM digital coverage with the continued need to limit interference from digital FM facilities to FM analog stations.

DATES: Effective May 10, 2010.

FOR FURTHER INFORMATION CONTACT: Peter H. Doyle or Susan N. Crawford, Media Bureau, Federal Communications Commission, 202–418–2700.

SUPPLEMENTARY INFORMATION: This is a summary of the Media Bureau's *Order* in MM Docket No. 99–325, adopted January 27, 2010, and released January 29, 2010.

Background and Related Documents

In the *First Report and Order* in MM Docket No. 99–325 (*See* 67 FR 78193, December 12, 2002), the Commission adopted rules permitting terrestrial radio stations to begin hybrid digital operations, i.e. the simultaneous transmission of analog and digital signals, using the in band-on channel (IBOC) DAB system developed by iBiquity Digital Corporation (iBiquity). As adopted, the IBOC DAB system permitted an FM station to operate with digital effective radiated power (ERP) equal to one percent (1%) of its analog ERP.

In 2007, after over four years of real-world hybrid digital operation by over 1,100 FM stations, it was apparent to both FM station licensees and the IBOC system developer that the coverage from an FM station's hybrid digital facilities was significantly less than the coverage from its analog facilities, and that this digital coverage shortfall was a direct result of the very low FM digital ERP permitted. Several FM station licensees and the IBOC system developer undertook an experimental field test program to determine the FM digital ERP required for hybrid digital coverage to replicate analog coverage. Based on their results, in June 2008, a group of FM stations licensees and FM transmission equipment manufacturers (Joint Parties) submitted a technical report of these studies prepared by iBiquity, and asked the Commission to increase maximum permissible FM digital ERP to ten percent (10%) of analog ERP for nearly all FM stations. The Joint Parties also requested that the Commission establish procedures to

investigate and resolve allegations of harmful interference from increased power digital operations. Shortly thereafter, National Public Radio (NPR) submitted a technical study disputing the results of the iBiquity study and opposing an unqualified increase in FM digital ERP based on its prediction of substantial interference to authorized analog FM operations. The Commission sought public comment on issues and technical studies related to the proposed FM digital ERP increase by Public Notice DA 08–2340 on October 23, 2008, and Public Notice DA 09–1127 on May 22, 2009 (*See* 74 FR 27985, June 12, 2009). Over 60 parties filed comments in response to each of these notices. In November 2009, NPR filed an additional technical study. Based on the results of that study, NPR reached an agreement with iBiquity on an increase in FM Digital ERP acceptable to both parties. NPR and iBiquity jointly filed this agreement, along with their proposal requesting that the Commission permit a blanket increase in FM Digital ERP to four percent (4%) of analog ERP for all FM stations except those with licensed facilities exceeding their allowable class maximum, and permit FM stations meeting certain criteria to increase digital ERP up to a maximum of 10% of analog ERP. Additionally, they requested that the Commission adopt specific procedures and requirements to address and resolve complaints of interference to licensed full-service analog FM stations resulting from increased FM digital ERP operation, and asked that the Commission reserve the right to revisit the FM digital ERP increase issue should harmful interference be widespread.

Synopsis of Order

Based on seven years of hybrid digital operation by over 1,500 FM stations that were free of well-documented interference complaints, and review and analysis of detailed technical studies and voluminous public comments submitted to the Commission, the Media Bureau concluded that it is necessary and prudent to increase maximum permissible FM digital ERP to improve FM digital coverage, and to eliminate regulatory impediments to FM digital radio's ability to realize its full potential and deliver its promised benefits. Specifically, this *Order* takes the following actions:

1. Increases maximum permissible hybrid FM digital ERP to 10% of authorized analog power.

2. Permits most FM stations to immediately commence operation with FM digital ERP equal to 4% of authorized analog power without prior approval from the Commission.

3. Establishes application procedures for FM stations desiring to increase FM digital ERP to more than 4% of authorized analog ERP.

4. Establishes interference remediation procedures that require the Media Bureau to review and resolve each *bona fide* interference complaint within 90 days of Bureau receipt of the complaint, and details required tiered digital ERP reductions for the alleged interfering digital station should the Bureau fail to act in the allowable 90-day period.

5. Reserves the right of the Commission to revisit the issue of FM digital ERP levels if harmful and significant interference results to existing analog FM operations.

Document Availability

The full text of this document and all related documents are available for public inspection and copying during regular business hours in the Commission's Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554, and may also be purchased from the Commission's copy contractor, BCPI, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI, Inc. via their Web site, *http://www.bcpi.com,* or by telephone at 1–800–378–3160. Additionally, all documents are available for download using the Commission's Electronic Comment Filing System at *http://fjallfoss.fcc.gov/ecfs/*. This document is available in alternative formats (computer diskette, large print, audio record and Braille). Persons with disabilities who need documents in these formats may contact Brian Millin at (202) 418–7426 (voice), (202) 418–7365 (TTY), or via e-mail at *Brian.Millin@fcc.gov.*

Final Paperwork Reduction Act Analysis. This *Order* adopts a new or revised information collection requirement(s) subject to the Paperwork Reduction Act of 1995 ("PRA"), Public Law 104–13 (44 U.S.C. 3501–3520). The requirement will be submitted to the Office of Management and Budget (OMB) for review under section 3507 of the PRA. The Commission published a separate notice in the **Federal Register** inviting comment on the new or revised information collection requirement(s) adopted in this document (*See* 75 FR 10266, March 5, 2010). The requirement(s) will not go into effect until OMB has approved it and the Commission has published a notice announcing the effective date of the information collection requirement(s). In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might "further reduce the information collection burden for small business concerns with fewer than 25 employees." We find that the modified information collection requirements must apply fully to small entities (as well as to others) to ensure compliance with our FM rules, as described in the Report and Order.

Final Regulatory Flexibility Act Analysis. As required by the Regulatory Flexibility Act (RFA),[1] as amended, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the FM Digital Power Increase and Associated Technical Studies Notice of Proposed Rules in this proceeding (*See* 74 FR 27985, June 12, 2009). The Commission sought written public comment on the proposals in the Notice of Proposed Rules section, including comment on the IRFA. The Commission received no comments specifically on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

Need For and Objectives of the Proposed Rules. The Commission's current rules limit the maximum permissible digital effective radiated power for FM stations (FM Digital ERP) to 1 percent of a station's authorized analog effective radiated power (Analog ERP) (20 decibels below carrier (−20 dBc)). Operating pursuant to that limitation, many stations have observed deficiencies in their digital signal coverage as compared to the coverage of their analog signal, particularly with regard to portable and indoor listening. A group consisting of 18 broadcasters that operate over 1200 commercial and noncommercial educational (NCE) FM radio stations throughout the United States and the 4 largest manufacturers of broadcast transmission equipment, collectively identifying themselves as the "Joint Parties," filed with the Commission a request that the maximum permissible FM Digital ERP be increased to 10 percent of a station's authorized Analog ERP (−10 dBc) to allow stations to improve their digital coverage (Joint Parties' Request). Filed concurrently with and in support of the Joint Parties' Request was a technical report on the proposed increase, prepared by iBiquity Digital Corporation ("iBiquity"). National Public Radio

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601 *et seq.,* has been amended by the Contract With America Advancement Act of 1996, Pub. L. 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

(NPR) subsequently submitted its Corporation for Public Broadcasting (CPB)-supported research on FM digital radio coverage and interference at higher power levels and expressed its opposition to the Joint Parties' Request, citing interference concerns. The Media Bureau (Bureau) issued a public notice seeking comment on the Joint Parties' Request and the iBiquity and NPR technical studies.[2]

NPR subsequently announced that it would complete additional studies on FM DAB at higher power levels, which it stated would be released in September 2009. The Bureau thereafter issued a second public notice in which it specifically asked whether an increase in maximum authorized FM digital operating power is warranted, and whether it should defer consideration of a power increase until completion of and comment on the further NPR studies.[3] In response, the majority of commenters stated that improvements to FM digital coverage are necessary for the successful consumer adoption of FM DAB technology. Some commenters stated, however, that the Bureau should delay any increase until completion of and comment on the further NPR studies, in order to ensure that higher-powered digital operation does not cause unacceptable interference to first adjacent analog stations.

On November 4, 2009, NPR submitted the results of its additional FM Digital ERP increase studies, "Report to the FCC on the Advanced IBOC Coverage and Compatibility Study" (AICCS Project Report), to the Commission. Based on its AICCS Project Report findings, NPR concluded that a blanket 6 dB increase in FM Digital ERP (from −20 dBc to −14 dBc) was acceptable for most FM stations, and that using a formula it developed based on its testing, certain FM stations could increase FM Digital ERP up to a maximum of 10 dB (from −20 dBc to −10 dBc).

Based on the results of the AICCS Project Report and the five years of generally interference-free FM hybrid digital operations by approximately 1500 stations, the *Order* adopts rule changes to allow eligible authorized FM stations to commence operation of FM digital facilities with operating power up to −14 dBc upon notice to the Commission (licensees of a super-powered FM station[4] must file an informal request for any increase in the station's FM Digital ERP). The rule changes will further allow licensees to submit an application to the Media Bureau, in the form of an informal request, for any increase in FM Digital ERP beyond 6 dB. Licensees submitting such a request must use a simplified method set forth in the *Order* to determine the proponent station's maximum permissible FM Digital ERP. In situations where the simplified method is not applicable due to unusual terrain or other environmental or technical considerations or when it produces anomalous FM Digital ERP results, the Bureau will accept applications for FM Digital ERP in excess of −14 dBc. Such an application must be accompanied by a detailed showing containing a complete explanation of the prediction methodology used as well as data, maps and sample calculations. The Media Bureau will evaluate these applications on a case-by-case basis. Finally, the *Order* implements interference mitigation and remediation procedures to resolve promptly allegations of digital interference to an authorized FM analog facility resulting from an FM Digital ERP power increase undertaken pursuant to the procedures adopted in the *Order.* Specifically, if an analog FM station is receiving verifiable listener complaints of interference within its protected contour from FM digital facilities operating with FM Digital ERP in excess of −20 dBc, the licensee of the affected analog FM station must contact the licensee of the station operating the FM digital facilities. Stations are required to work cooperatively to confirm the instances of interference. If the stations fail to reach agreement on appropriate interference remediation measures, the licensee of the affected analog FM station may file an interference complaint with the Bureau.

The rule changes adopted in the *Order* balance the pressing need for improved FM digital coverage with the continued need to limit interference to first-adjacent analog stations. The rules will allow an FM station's digital signal to more closely approximate the coverage of their analog signal, improving service to listeners, and provide a detailed mechanism for resolving interference complaints, thus providing regulatory certainty as this relatively new service continues to develop.

Summary of Significant Issues Raised by Public Comments in Response to the IRFA. In the IRFA, the Bureau sought comment regarding how small entities would be affected if the Commission were to adopt an increase in maximum digital operating power, whether such adoption could result in the disparate treatment of small entities with limited financial and/or technical resources, and any information on alternative approaches to alleviate any potential burdens on small entities. The Commission received no comments specifically in response to the IRFA.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules.[5] The RFA generally defines the term "small entity" as encompassing the terms "small business," "small organization," and "small governmental entity."[6] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[7] A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[8] The proposed rules and policies potentially will apply to all FM radio broadcasting licensees and potential licensees.

The SBA defines a radio broadcasting station that has $7 million or less in annual receipts as a small business.[9] A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public.[10] Included in this industry are commercial, religious, educational, and other radio stations.[11] Radio broadcasting stations which primarily are engaged in radio broadcasting and which produce radio program materials

[2] *Comment Sought on Joint Parties Request for FM Digital Power Increase and Associated Technical Studies,* Public Notice, DA 08–2340 (MB rel. Oct. 23, 2008).

[3] *Comment Sought on Specific Issues Regarding Joint Parties' Request for FM Digital Power Increase and Associated Technical Studies,* Public Notice, 24 FCC Rcd (MB 2009) (DA 09–1127).

[4] Super-powered FM stations are stations that have effective radiated powers in excess of the maximum permitted for their class, or stations with authorized facilities that produce a reference contour that exceeds the pertinent maximum class contour distance, as specified in § 73.211.

[5] 5 U.S.C. 603(b)(3).

[6] 5 U.S.C. 601(6).

[7] 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register.**"

[8] 15 U.S.C. 632.

[9] *See* 13 CFR 121.201, NAICS Code 515112 (changed from 513112 in October 2002).

[10] *Id.*

[11] *Id.*

are similarly included.[12] According to Commission staff review of the BIA Financial Network, Inc. Media Access Radio Analyzer Database as of February 19, 2009, about 10,600 (96 percent) of 11,050 commercial radio stations in the United States have revenues of $7 million or less. We note that many radio stations are affiliated with much larger corporations having much higher revenue. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements. The increase of FM Digital ERP as authorized in the *Order* is at the option of the licensee. As noted above, a broadcast licensee may opt not to increase its power and will thus incur no costs. To the extent that a licensee chooses to increase its digital operating power, the associated burdens and costs depend on the nature of the increase. The rule changes will allow eligible authorized FM stations to commence operation of FM digital facilities with operating power up to −14 dBc upon notice to the Commission. The rule changes will further allow licensees to submit an application to the Media Bureau, in the form of an informal request, for any increase in FM Digital ERP beyond 6 dB (or, in the case of super-powered stations, any increase in its Digital ERP). Licensees submitting such a request must use a simplified method set forth in the *Order* to determine the proponent station's maximum permissible FM Digital ERP. In situations where the simplified method is not applicable due to unusual terrain or other environmental or technical considerations or when it produces anomalous FM Digital ERP results, the Bureau will accept applications for FM Digital ERP in excess of −14 dBc on a case-by-case basis when accompanied by a detailed showing containing a complete explanation of the prediction methodology used as well as data, maps and sample calculations.

Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[13]

In the *Order,* we take actions that may affect FM stations that are small entities by providing them the opportunity to operate at higher digital power levels. Prior to the instant rule changes, broadcasting in digital was optional for FM stations, and it will remain optional for FM stations following the rule changes. As a result, FM radio stations of all sizes may choose to take no action in response to the rule changes. In addition, FM radio stations already broadcasting in digital will not be required to take any action under the new rule if they continue operation at one percent of their Analog ERP levels, the maximum FM Digital ERP previously authorized, because the authorized increases in FM Digital ERP adopted in the *Order* are voluntary. In other words, small entities may continue to operate as authorized prior to today's rule changes if they lack, for instance, the resources to make investments in equipment necessary to implement a digital power increase. We acknowledge that an argument could be made by smaller entities that they could face an unacceptable disproportionate burden because of a comparative lack of capital and other resources. This argument suggests that the adopted rule changes places smaller entities at a resultant disadvantage in relation to larger entities. However, we reject such an argument because allowing such voluntary upgrades will ultimately provide: (1) Improved digital coverage; (2) the advancement of digital radio technology; (3) increased listenership; (4) greater regulatory certainty; (5) flexibility to licensees in the timing and scope of the rollout of their digital radio services; and (6) the facilitation of informed decisions regarding equipment purchases that will best serve licensees' needs. Allowing licensees to voluntarily increase their Digital ERP will, in the long run, prove to impose a lesser burden on smaller entities than alternative measures, such as making digital power increases compulsory or prohibiting increases altogether. In light of these considerations, the Bureau has determined that the rule changes will not have a significant disproportionate impact on small entities.

Report to Congress. The Commission will send a copy of this *Order,* including the FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the SBREFA.[14]

Legal Basis

The authority for the actions taken in this *Order* is contained in sections 1, 4(i), 301, 302, 303, 307, 308, 309, 319, and 324 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 301, 302, 303, 307, 308, 309, 319, and 324, as well as the authority delegated to the Media Bureau by the Commission in the *Second Report and Order (See* 72 FR 45670, August 15, 2007) in this proceeding.

List of Subjects in 47 CFR Part 73

Radio.

Federal Communications Commission.

William T. Lake,

Chief, Media Bureau.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336, and 339.

■ 2. Section 73.404 is amended by revising paragraphs (a) and (e)(5) as follows:

§ 73.404 Interim hybrid IBOC DAB operation.

(a) The licensee of an AM or FM station, or the permittee of a new AM or FM station which has commenced program test operation pursuant to § 73.1620, may commence interim hybrid IBOC DAB operation with digital facilities which conform to the technical specifications specified for hybrid DAB operation in the *First Report and Order* in MM Docket No. 99–325, as revised in the Media Bureau's subsequent *Order* in MM Docket No. 99–325. FM stations are permitted to operate with hybrid digital effective radiated power equal to one percent (−20 decibels below carrier (dBc)) of authorized analog effective radiated power and may operate with up to ten percent (−10 dBc) of authorized analog effective radiated power in accordance with the procedures set forth in the Media Bureau's *Order* in MM Docket No. 99–325. An AM or FM station may transmit IBOC signals during all hours for which the station is licensed to broadcast.

* * * * *

[12] *Id.*

[13] 5 U.S.C. 603(b).

[14] See 5 U.S.C. 801(a)(1)(A).

(e) * * *

(5) FM digital effective radiated power used and certification that the FM analog effective radiated power remains as authorized;

* * * * *

[FR Doc. 2010–8012 Filed 4–7–10; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 75, No. 67
Thursday, April 8, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0380; Directorate Identifier 2009–NM–009–AD]

RIN 2120–AA64

Airworthiness Directives; The Cessna Aircraft Company Model 750 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to all Model 750 airplanes. The existing AD currently requires inspecting the inboard-hinge brackets of the left and right elevators for cracking and doing related investigative and corrective actions if necessary. For certain airplanes, this proposed AD would require inspecting for cracks and corrosion of the bracket of the inboard horizontal stabilizer and measuring the lug thickness of the horizontal stabilizer hinges; doing corrective actions if necessary; modifying the left and right elevators and left and right horizontal stabilizer. For all airplanes, this proposed AD would require replacing the existing elevator assemblies with new elevator assemblies, which would terminate the requirements of the existing AD. This proposed AD would also revise the applicability to remove certain airplanes. This proposed AD results from a report of cracking and corrosion found on the elevator inboard-hinge brackets and the horizontal stabilizer hinges. We are issuing this AD to prevent such cracking and corrosion of the elevator inboard-hinge brackets and the horizontal stabilizer hinges, which could result in structural failure of the elevators and consequent loss of control of the airplane.

DATES: We must receive comments on this proposed AD by May 24, 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 proposed AD, contact Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277; telephone 316–517–6215; fax 316–517–5802; e-mail *citationpubs@cessna.textron.com;* Internet *https://www.cessnasupport.com/newlogin.html.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: T.N. Baktha, Aerospace Engineer, Airframe Branch, ACE–118W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4155; fax (316) 946–4107.

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–2010–0380; Directorate Identifier 2009–NM–009–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

On October 26, 2006, we issued AD 2006–23–05, Amendment 39–14817 (71 FR 65047, November 7, 2006), for all The Cessna Aircraft Company Model 750 airplanes. That AD requires inspecting the inboard-hinge brackets of the left and right elevators for cracking, and doing related investigative and corrective actions if necessary. That AD resulted from a report of cracking found on the elevator inboard-hinge brackets. We issued that AD to detect and correct cracking of the elevator inboard-hinge brackets, which could result in structural failure of the elevators and consequent loss of control of the airplane.

Actions Since Existing AD Was Issued

The preamble to AD 2006–23–05 explains that we considered the requirements "interim action" and were considering further rulemaking if a final action is identified. We now have determined that further rulemaking is indeed necessary, and this proposed AD follows from that determination.

Relevant Service Information

We have reviewed Cessna Service Bulletin SB750–27–62, Revision 3, dated August 21, 2009, including Service Bulletin Supplemental Data, Revision D, dated September 18, 2009. That service bulletin describes procedures for the following:

- For certain airplanes, doing an eddy current inspection for cracks of the bracket of the inboard horizontal stabilizer; and corrective action, if necessary, which is replacing any cracked bracket of the inboard horizontal stabilizer with a serviceable bracket.
- For certain airplanes, measuring the lug thickness of the horizontal stabilizer hinges; and corrective action, if necessary, which is replacing the bearing plate with a serviceable bearing plate if the lug thickness is not within the acceptable tolerance range.
- For certain airplanes, modifying the left and right horizontal stabilizer, and adding the modification part number of the horizontal stabilizer to the modification section of the MS27253–1 identification plate.
- For all airplanes, replacing the left and right elevator assemblies with new elevator assemblies.

Accomplishment of the applicable actions specified in Cessna Service Bulletin SB750–27–62, Revision 3, dated August 21, 2009, eliminates the need for the actions required by AD 2006–23–05.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to develop on other airplanes of the same type design. For this reason, we are proposing this AD, which would supersede AD 2006–23–05 and would retain the requirements of the existing AD. This proposed AD removes certain airplanes from the applicability of the existing AD. Cessna Model 750 airplanes with serial number 750–306 and subsequent are no longer subject to the requirements of this AD as Cessna has incorporated the applicable requirements in production. This proposed AD would also require accomplishing the actions specified in the "Relevant Service Information" described previously, except as discussed under "Differences Between the Proposed AD and Service Bulletin."

Differences Between the Proposed AD and Service Bulletin

Cessna Service Bulletin SB750–27–62, Revision 3, dated August 21, 2009, specifies to do eddy current inspection for cracks of the bracket of the inboard horizontal stabilizer and replace any cracked brackets. This proposed AD would also require an inspection for corrosion and replacement of any corroded brackets.

Change to Existing AD

This proposed AD would retain the requirements of AD 2006–23–05. Since AD 2006–23–05 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2006–23–05	Corresponding requirement in this proposed AD
paragraph (d)	paragraph (e)
paragraph (e)	paragraph (f)
paragraph (f)	paragraph (g)
paragraph (g)	paragraph (h)
paragraph (h)	paragraph (i)
paragraph (i)	paragraph (j)

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection (required by AD 2006–23–05).	2	$85	$0	$170	253	$43,010.
Modification and Replacement (new proposed actions).	Up to 200	85	The manufacturer states that it will supply parts to the operators at no cost.	Up to $17,000.	253	Up to 4,301,000.

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. 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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–14817 (71 FR 65047, November 7, 2006) and adding the following new AD:

The Cessna Aircraft Company: Docket No. FAA–2010–0380; Directorate Identifier 2009–NM–009–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by May 24, 2010.

Affected ADs

(b) This AD supersedes AD 2006–23–05, Amendment 39–14817.

Applicability

(c) This AD applies to The Cessna Aircraft Company Model 750 airplanes, certificated in any category, as identified in Cessna Service Bulletin SB750–27–62, Revision 3, dated August 21, 2009.

Subject

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

Unsafe Condition

(e) This AD results from a report of cracking and corrosion found on the elevator inboard-hinge brackets and the horizontal stabilizer hinges. The Federal Aviation Administration is issuing this AD to prevent cracking and corrosion of the elevator inboard-hinge brackets and the horizontal stabilizer hinges, which could result in 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.

RESTATEMENT OF REQUIREMENTS OF AD 2006–23–05, WITH NO CHANGES:

Inspection

(g) After the airplane accumulates 2,500 total flight hours: Perform a general visual inspection for cracking of the inboard-hinge brackets of the left and right elevators in accordance with the Accomplishment Instructions of Cessna Alert Service Letter ASL750–27–21, dated October 13, 2006. Do the inspection before the airplane accumulates 3,000 total flight hours, or within 10 flight hours after November 22, 2006 (the effective date of AD 2006–23–05), whichever is later.

Note 1: For the purposes of this AD, a general visual inspection is: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Related Investigative and Corrective Actions

(h) If any crack is found during the inspection required by paragraph (g) of this AD: Before further flight, perform an eddy current inspection of the inboard-hinge brackets to determine the crack length, in accordance with the Accomplishment Instructions of Cessna Alert Service Letter ASL750–27–21, dated October 13, 2006; and do the actions specified in paragraph (h)(1) or (h)(2) of this AD, as applicable, at the time specified. All corrective actions must be done using a method approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA. For a replacement method to be approved by the Manager, Wichita ACO, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

(1) If the crack is 0.30 inch or more: Replace the bracket before further flight.

(2) If the crack is less than 0.30 inch: Continued flight for a maximum of 10 flight hours for repositioning of the airplane and replacement of the bracket is allowed, within the restricted flight envelope included in the attachment to Cessna Alert Service Letter ASL750–27–21, dated October 13, 2006, titled "Flight Restrictions."

Special Flight Permits

(i) Special flight permits, as described in Section 39.23 of the Federal Aviation Regulations (14 CFR 39.23), are allowed with the limitations required by paragraph (h)(2) of this AD.

No Reporting or Return of Parts to Manufacturer

(j) Cessna Alert Service Letter ASL750–27–21, dated October 13, 2006, specifies submitting a sheet related to inspection results to the manufacturer; this AD does not include that requirement. The service letter also specifies sending the elevator assembly to the manufacturer for replacement of the inboard-hinge bracket if a crack is found that is 0.30 inch or more; however, this AD requires corrective actions be done using a method approved by us.

NEW REQUIREMENTS OF THIS AD:

(k) Within 60 months after the effective date of this AD, do the applicable actions required by paragraphs (k)(1), (k)(2), (k)(3), and (k)(4) of this AD, in accordance with the Accomplishment Instructions of Cessna Service Bulletin SB750–27–62, Revision 3, dated August 21, 2009. Accomplishing the actions required by paragraph (k) of this AD terminates the requirements of paragraphs (g) through (j) of this AD.

(1) For all airplanes except those having S/Ns 288 through 305 inclusive: Do an eddy current inspection for cracks and corrosion of the bracket of the inboard horizontal stabilizer. Before further flight, replace any cracked or corroded bracket of the inboard horizontal stabilizer with a serviceable bracket.

(2) For all airplanes except those having S/Ns 288 through 305 inclusive: Measure the lug thickness of the horizontal stabilizer hinges. If the lug thickness is not within the acceptable tolerance range, as identified in Cessna Service Bulletin SB750–27–62, Revision 3, dated August 21, 2009, before further flight, replace the bearing plate with a serviceable bearing plate.

(3) For all airplanes except those having S/Ns 288 through 305 inclusive: Modify the left and right horizontal stabilizer; and add the modification part number of the horizontal stabilizer to the modification section of the MS27253–1 identification plate.

(4) For all airplanes: Replace the existing elevator assemblies with new elevator assemblies having part numbers 6734000–17 (for the left side) and 6734000–18 (for the right side).

Credit for Actions Done Using the Previous Service Information

(l) Actions accomplished before the effective date of this AD in accordance with the service bulletins identified in Table 1 of this AD are considered acceptable for compliance with the corresponding requirements of paragraph (k) of this AD.

TABLE 1—CREDIT FOR PREVIOUS SERVICE BULLETINS

Service Bulletin	Revision level	Date
Cessna Service Bulletin SB750–27–62	Original	October 13, 2008.
Cessna Service Bulletin SB750–27–62	1	October 22, 2008.
Cessna Service Bulletin SB750–27–62	2	December 17, 2008.

Alternative Methods of Compliance (AMOCs)

(m)(1) 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: T.N. Baktha, Aerospace Engineer, Airframe Branch, ACE–118W, FAA, Wichita ACO, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4155; fax (316) 946–4107.

(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.

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–7943 Filed 4–7–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0379; Directorate Identifier 2009–NM–210–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 737–300, –400, and –500 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to all Model 737–300, –400, and –500 series airplanes. The existing AD currently requires inspecting to determine if certain carriage spindles are installed, repetitive inspections for corrosion and indications of corrosion on affected carriage spindles, and if necessary, related investigative and corrective actions. The existing AD also provides an optional terminating action. This proposed AD would mandate the optional terminating action, which would eliminate the need for the repetitive inspections. The proposed AD results from reports of corrosion found on carriage spindles that are located on the outboard trailing edge flaps. We are proposing this AD to detect and correct corrosion of the carriage spindle, which could result in fracture. Fracture of both the inboard and outboard carriage spindles, in the forward ends through the large diameters, on a flap, could adversely affect the airplane's continued safe flight and landing.

DATES: We must receive comments on this proposed AD by May 24, 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 proposed 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.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6440; fax (425) 917–6590.

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–2010–0379; Directorate Identifier 2009–NM–210–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

On October 26, 2009, we issued AD 2009–23–10, Amendment 39–16084 (74 FR 57564, November 9, 2009), for all Model 737–300, –400, and –500 series airplanes. That AD requires inspecting to determine if certain carriage spindles are installed, repetitive inspections for corrosion and indications of corrosion on affected carriage spindles, and if necessary, related investigative and corrective actions. That AD also provides an optional terminating action. That AD resulted from reports of corrosion found on carriage spindles that are located on the outboard trailing edge flaps. We issued that AD to detect and correct corrosion of the carriage spindle, which could result in fracture. Fracture of both the inboard and outboard carriage spindles, in the forward ends through the large diameters, on a flap, could adversely affect the airplane's continued safe flight and landing.

Actions Since Existing AD Was Issued

The preamble to AD 2009–23–10 explains that we consider the requirements "interim action" and were considering further rulemaking. We now have determined that further rulemaking is indeed necessary, and this proposed AD follows from that determination.

Boeing Commercial Airplanes has received an Organization Designation Authorization (ODA), which replaces their previous designation as a Delegation Option Authorization (DOA) holder. We have revised paragraph (l)(3) of this AD to delegate the authority to approve an alternative method of

compliance for any repair required by this AD to the Boeing Commercial Airplanes ODA.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to develop on other airplanes of the same type design. For this reason, we are proposing this AD, which would supersede AD 2009–23–10 and would retain the requirements of the existing AD. This proposed AD would also mandate the optional terminating action, which would eliminate the need for the repetitive inspections.

Costs of Compliance

There are about 482 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 150 airplanes of U.S. registry.

The inspection that is required by AD 2009–23–10 and retained in this proposed AD takes about 2 work hours per airplane, at an average labor rate of $85 per work hour. Based on these figures, the estimated cost of the currently required inspection is $170 per airplane, per inspection cycle.

The replacement of each affected carriage spindle that is proposed in this AD would take about 17 work hours per spindle (4 spindles per airplane), at an average labor rate of $85 per work hour. Required parts cost would be provided under warranty. Based on these figures, the estimated cost of the replacement specified in this proposed AD for U.S. operators is up to $5,780, or $1,445 per carriage spindle or up to $867,000.

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. 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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–16084 (74 FR 57564, November 9, 2009) and adding the following new AD:

The Boeing Company: Docket No. FAA–2010–0379; Directorate Identifier 2009–N–210–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by May 24, 2010.

Affected ADs

(b) This AD supersedes AD 2009–23–10, Amendment 39–16084.

Applicability

(c) This AD applies to all The Boeing Company Model 737–300, –400, and –500 series airplanes, certificated in any category.

Subject

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

Unsafe Condition

(e) This AD results from reports of corrosion found on carriage spindles that are located on the outboard trailing edge flaps. The Federal Aviation Administration is issuing this AD to detect and correct corrosion of the carriage spindle, which could result in fracture. Fracture of both the inboard and outboard carriage spindles, in the forward ends through the large diameters, on a flap, could adversely affect the airplane's continued safe flight and landing.

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 REQUIREMENTS OF AD 2008–15–05, AMENDMENT 39–15617: Inspection To Determine Affected Carriage Spindle

(g) For all airplanes: Within 30 days after August 5, 2008 (the effective date of AD 2008–15–05), inspect the carriage sub-assembly to determine whether an affected carriage spindle with a high velocity oxy-fuel (HVOF) thermal coating is installed, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1304, dated June 2, 2008. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number and/or serial number of the carriage can be conclusively determined from that review. If no affected carriage spindle is installed, no further action is required by this paragraph.

Repetitive Inspections, Related Investigative Actions, and Corrective Action

(h) For airplanes on which any affected carriage spindle was determined to be installed in accordance with Boeing Alert Service Bulletin 737–57A1304, dated June 2, 2008, as of August 5, 2008; and the spindle is identified in Table 2 of Boeing Service Bulletin 737–57A1304, Revision 1, dated August 11, 2009: At the later of the times specified in paragraphs (h)(1) and (h)(2) of this AD, do a detailed inspection (or, as an option for the forward end of the spindle only, a borescope inspection technique may be used) of the spindle for corrosion and potential indications of corrosion of the carriage spindle, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1304, dated June 2, 2008; or Boeing Service Bulletin 737–57A1304, Revision 1, dated August 11, 2009. Do all applicable related investigative and corrective actions before further flight. Repeat the detailed inspection (or, as an option for the forward end of the spindle only, the borescope inspection) and certain related investigative actions (i.e., the gap-check or optional non-destructive test (NDT) ultrasonic inspection) at the applicable compliance times specified in paragraph 1.E. of Boeing Alert Service Bulletin 737–57A1304, dated June 2, 2008; or

Boeing Service Bulletin 737–57A1304, Revision 1, dated August 11, 2009.

(1) Within 30 days after August 5, 2008.

(2) Within 90 days after the installation of a new HVOF-coated spindle.

Note 1: Boeing Alert Service Bulletin 737–57A1304, dated June 2, 2008; and Boeing Service Bulletin 737–57A1304, Revision 1, dated August 11, 2009; reference Boeing Alert Service Bulletin 737–57A1277, Revision 1, dated November 25, 2003; for further guidance on accomplishing the related investigative actions.

RESTATEMENT OF REQUIREMENTS OF AD 2009–23–10, AMENDMENT 39–16084: Repetitive Inspections, Related Investigative Actions, and Corrective Action for Certain Airplanes

(i) For airplanes on which a carriage spindle having a serial number identified in Table 3 of Appendix A of Boeing Service Bulletin 737–57A1304, Revision 1, dated August 11, 2009, is installed: At the latest of the times specified in paragraphs (i)(1), (i)(2), and (i)(3) of this AD, as applicable, do a detailed inspection (or, as an option for the forward end of the spindle only, a borescope inspection technique may be used) of the spindle for corrosion and potential indications of corrosion of the carriage spindle, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–57A1304, Revision 1, dated August 11, 2009. Do all applicable related investigative and corrective actions before further flight. Repeat the detailed inspection (or, as an option for the forward end of the spindle only, the borescope inspection) and related investigative actions (*i.e.,* the gap-check or optional NDT ultrasonic inspection) at the applicable compliance times specified in paragraph 1.E. of Boeing Service Bulletin 737–57A1304, Revision 1, dated August 11, 2009.

(1) Within 30 days after November 24, 2009 (the effective date of AD 2009–23–10).

(2) Within 90 days after the installation of a new HVOF-coated spindle identified in Table 3 of Appendix A of Boeing Service Bulletin 737–57A1304, Revision 1, dated August 11, 2009.

(3) Within 90 days after doing an inspection in accordance with Boeing Alert Service Bulletin 737–57A1304, dated June 2, 2008.

Parts Installation

(j) As of August 5, 2008, an HVOF-coated spindle without an 'R' suffix on the serial number may be installed on an airplane provided the actions required by paragraph (h) or (i) of this AD, as applicable, are done on that spindle.

NEW REQUIREMENTS OF THIS AD: Terminating Action

(k) Within 48 months after the effective date of this AD: Replace any HVOF-coated carriage spindle having a serial number identified in Table 2 or 3 of Appendix A of Boeing Service Bulletin 737–57A1304, Revision 1, dated August 11, 2009, with a non-HVOF coated carriage spindle, or with a serviceable HVOF-coated carriage spindle with an 'R' suffix on the serial number, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1304, dated June 2, 2008; or Boeing Service Bulletin 737–57A1304, Revision 1, dated August 11, 2009. Replacing all affected carriage spindles terminates the repetitive inspections required by this AD.

Alternative Methods of Compliance (AMOCs)

(l)(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: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6440; fax (425) 917–6590. Or, e-mail information to *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by the Boeing Commercial Airplanes Organization Delegation 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.

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–7944 Filed 4–7–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0375; Directorate Identifier 2010–NM–014–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) Airplanes; Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) Airplanes; Model CL–600–2D15 (Regional Jet Series 705) and Model CL–600–2D24 (Regional Jet Series 900) 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: Following five reported cases of balance washer screw failure on similar ADGs [air-driven generators]/ram air turbines installed on other aircraft types, investigation by Hamilton Sundstrand determined that a specific batch of the screws had a metallographic non-conformity that increased their susceptibility to brittle fracture. Failure of a balance washer screw can result in loss of the related balance washer, with consequent turbine imbalance. Such imbalance could potentially result in ADG structural failure (including blade failure), loss of ADG electrical power and structural damage to the aircraft and, if deployment was activated by a dual engine shutdown, could also result in loss of hydraulic power for the flight controls [and consequent reduced ability of the flightcrew to maintain the safe flight and landing 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 May 24, 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, 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.crj@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: Christopher Alfano, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7340; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

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–2010–0375; Directorate Identifier 2010–NM–014–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–2009–48, dated December 14, 2009 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> Following five reported cases of balance washer screw failure on similar ADGs [air-driven generators]/ram air turbines installed on other aircraft types, investigation by Hamilton Sundstrand determined that a specific batch of the screws had a metallographic non-conformity that increased their susceptibility to brittle fracture. Subsequently, it was established that 152 "dry" ADGs [Hamilton Sundstrand Part Numbers (P/Ns) in the 761339 series and 1711405; see Note] either had non-conforming screws installed during production or may possibly have had non-conforming screws installed during maintenance or repair at Hamilton Sundstrand repair stations.
>
> Failure of a balance washer screw can result in loss of the related balance washer, with consequent turbine imbalance. Such imbalance could potentially result in ADG structural failure (including blade failure), loss of ADG electrical power and structural damage to the aircraft and, if deployment was activated by a dual engine shutdown, could also result in loss of hydraulic power for the flight controls [and consequent reduced ability of the flightcrew to maintain the safe flight and landing of the airplane].
>
> This [Canadian] directive mandates checking the ADG and replacing the balance washer screws, if required. It also prohibits future installation of unmodified ADGs.
>
> Note: ADGs with Hamilton Sundstrand P/Ns in the 761339 series and 1711405 are installed on the aircraft models listed in the Applicability section above in addition to Bombardier Inc. Model CL–600–2B16. The latter model is covered in a separate directive.

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

Relevant Service Information

Bombardier has issued Service Bulletins 601R–24–127, Revision A, dated February 25, 2010; and 670BA–24–026, dated October 23, 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 1,008 products of U.S. registry. We also estimate that it would take about 10 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 $0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these 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 $856,800, or $850 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of

the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

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

Regulatory Findings

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–2010–0375; Directorate Identifier 2010–NM–014–AD.

Comments Due Date

(a) We must receive comments by May 24, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, serial numbers 7305 through 7990 inclusive and 8000 and subsequent; Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, serial numbers 10003 and subsequent; Model CL–600–2D15 (Regional Jet Series 705) and Model CL–600–2D24 (Regional Jet Series 900) airplanes, serial numbers 15001 and subsequent; certificated in any category.

Subject

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

Reason

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

Following five reported cases of balance washer screw failure on similar ADGs [air-driven generators]/ram air turbines installed on other aircraft types, investigation by Hamilton Sundstrand determined that a specific batch of the screws had a metallographic non-conformity that increased their susceptibility to brittle fracture. Subsequently, it was established that 152 "dry" ADGs [Hamilton Sundstrand Part Numbers (P/Ns) in the 761339 series and 1711405; see Note] either had non-conforming screws installed during production or may possibly have had non-conforming screws installed during maintenance or repair at Hamilton Sundstrand repair stations.

Failure of a balance washer screw can result in loss of the related balance washer, with consequent turbine imbalance. Such imbalance could potentially result in ADG structural failure (including blade failure), loss of ADG electrical power and structural damage to the aircraft and, if deployment was activated by a dual engine shutdown, could also result in loss of hydraulic power for the flight controls [and consequent reduced ability of the flightcrew to maintain the safe flight and landing of the airplane].

This [Canadian] directive mandates checking the ADG and replacing the balance washer screws, if required. It also prohibits future installation of unmodified ADGs.

Note: ADGs with Hamilton Sundstrand P/Ns in the 761339 series and 1711405 are installed on the aircraft models listed in the Applicability section above in addition to Bombardier Inc. Model CL–600–2B16. The latter model is covered in a separate directive.

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 Model CL–600–2C10, CL–600–2D15 and CL–600–2D24 airplanes: At the earliest of the times identified in paragraphs (g)(1), (g)(2), (g)(3), or (g)(4) of this AD, do an inspection to determine the serial number of the installed air-driven generator (ADG), in accordance with the Accomplishment Instructions of the applicable service bulletin listed in Table 1 of this AD. A review of airplane maintenance records is acceptable in lieu of this inspection if the serial number of the ADG can be conclusively identified from that review.

(1) Within 4,000 flight hours or 18 months after the effective date of this AD, whichever occurs first; or.

(2) Prior to the next in-flight or on-ground functional check of the ADG, whichever occurs first after the effective date of this AD; or

(3) Prior to the next in-flight or on-ground operational check of the ADG, whichever occurs first after the effective date of this AD; or

(4) Before the next scheduled ADG in-flight deployment.

(h) For Model CL–600–2B19 airplanes: At the earliest of the times identified in paragraphs (h)(1), (h)(2), (h)(3), and (h)(4) of this AD, do an inspection to determine the serial number of the installed ADG, in accordance with the Accomplishment Instructions of the applicable service bulletin listed in Table 1 of this AD. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the ADG can be conclusively identified from that review.

(1) Within 4,000 flight hours after the effective date of this AD; or

(2) Prior to the next in-flight or on-ground functional check of the ADG, whichever occurs first after the effective date of this AD; or

(3) Prior to the next in-flight or on-ground operational check of the ADG, whichever occurs first after the effective date of this AD; or

(4) Before the next scheduled ADG in-flight deployment.

TABLE 1—SERVICE BULLETINS

Model—	Bombardier Service Bulletin—	Revision—	Dated—
CL–600–2B19 airplanes	601R–24–127	A	February 25, 2010.

TABLE 1—SERVICE BULLETINS—Continued

Model—	Bombardier Service Bulletin—	Revision—	Dated—
CL–600–2C10, CL–600–2D15, CL–600–2D24 airplanes ...	670BA–24–026	Original	October 23, 2009.

(i) If the ADG serial number determined in paragraph (g) or (h) of this AD is identified in paragraph 1.A. of the applicable service bulletin listed in Table 1 of this AD, before further flight do an inspection to determine if the symbol "24–5" is marked on the ADG identification plate. A review of airplane maintenance records is acceptable in lieu of this inspection if the symbol "24–5" mark can be conclusively identified from that review.

(1) If the symbol "24–5" is marked on the ADG identification plate, the balance washer screws have already been replaced, and no further action is required by this paragraph.

(2) If the symbol "24–5" is not marked on the ADG identification plate, before further flight replace all balance washer screws with new balance washer screws, part number MS24667–14, and mark the ADG identification plate with symbol "24–5," in accordance with the Accomplishment Instructions of the applicable service bulletin listed in Table 1 of this AD.

(j) As of the effective date of this AD, no person may install on any airplane, a replacement or spare ADG, Hamilton Sundstrand part number in the 761339 or 1711405 series, having one of the serial numbers identified in paragraph 1.A. of the applicable service bulletin identified in Table 1 of this AD, unless the ADG is identified with the symbol "24–5" on the identification plate.

Actions Accomplished According to Previous Issue of Service Bulletin

(k) Inspections accomplished before the effective date of this AD according to Bombardier Service Bulletin 601R–24–127, dated October 23, 2009, are considered acceptable for compliance with the corresponding action specified in this AD.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows: The MCAI specifies to inspect only airplanes having certain serial numbers that are part of the MCAI applicability. Because the affected part could be rotated onto any of the airplanes listed in the applicability, this AD requires the inspection be done on all airplanes. We have coordinated this with the TCCA.

Other FAA AD Provisions

(l) 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

(m) Refer to MCAI Canadian Airworthiness Directive CF–2009–48, dated December 14, 2009; and Bombardier Service Bulletins 601R–24–127, Revision A, dated February 25, 2010, and 670BA–24–026, dated October 23, 2009; for related information.

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–7947 Filed 4–7–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0377; Directorate Identifier 2009–NM–246–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 767 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

DATES: We must receive comments on this proposed AD by May 24, 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 proposed 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.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

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–2010–0377; Directorate Identifier 2009–NM–246–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We have received two reports of broken bolts on the main track downstop assembly of the outboard slat. In one case, the broken bolt was found at the bottom of the track housing. The main track downstop assembly was found to have had only one of the two required spacers installed, which allowed the bolt to slide and contact the wing spar web cutout. This contact fractured the bolt and scratched the wing spar web cutout. In the second case the bolt was found fractured at the thread. The bolt, spacers, and nut were found at the bottom of the track housing, and no damage was found on the wing spar web cutout or the track housing. An incorrectly installed main track downstop assembly can allow the main track downstop hardware to fall into the track housing, which could cause a puncture in the track housing when the slat is retracted. This condition, if not corrected, could result in a fuel leak and an increased risk of fire.

Relevant Service Information

We have reviewed Boeing Special Attention Service Bulletin 767–57–0118, dated October 8, 2009. The service bulletin describes procedures for doing a detailed inspection of the main track downstop assemblies of the outboard slats number 1 through 5 and 8 through 12 for correct assembly, thread protrusion, and damaged or missing parts to make sure that the bolt, nut, and two spacers are in place and correctly installed, and doing related investigative and corrective actions if necessary. The related investigative actions include doing a detailed inspection of the bolt and spacer for corrosion and damage, and inspecting for looseness of the bolt and nut by applying torque to the nut and bolt of the main track downstop assembly. The corrective actions include:

- Installing a bolt and spacer with a new nut (including applying torque to make sure that it has been correctly installed).
- Replacing a missing, corroded, or damaged spacer or bolt, and installing a new nut.
- Tightening the existing nut.

Boeing Special Attention Service Bulletin 767–57–0118, dated October 8, 2009, also describes procedures for doing a detailed inspection for foreign objects debris and damage to the wall of the track housing of the outboard slats 1 through 5 and slats 8 through 12, and corrective actions if necessary. The corrective actions include:

- Removing foreign object debris.
- Repairing damage.
- Replacing the track housing or contacting Boeing for repair instructions and doing the repair.

FAA's Determination and Requirements of This Proposed AD

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

Differences Between the Proposed AD and Service Bulletin

Boeing Special Attention Service Bulletin 767–57–0118, dated October 8, 2009, specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

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

Costs of Compliance

We estimate that this proposed AD would affect 361 airplanes of U.S. registry. We also estimate that it would take about 8 work-hours per product to comply with this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost $0 per product. Based on these figures, we estimate the cost of this proposed AD to the U.S. operators to be $245,480, or $680 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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.

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

List of Subjects in 14 CFR Part 39

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

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:

The Boeing Company: Docket No. FAA–2010–0377; Directorate Identifier 2009–NM–246–AD.

Comments Due Date

(a) We must receive comments by May 24, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to The Boeing Company Model 767–200, –300, –300F, and –400ER series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 767–57–0118, dated October 8, 2009.

Subject

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

Unsafe Condition

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

Compliance

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

Inspection

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

(1) Do a detailed inspection for correct assembly, thread protrusion, and damaged and missing parts of the main track downstop assemblies of outboard slats 1 through 5 and slats 8 through 12, and do all applicable related investigative and corrective actions, in accordance with Part 2 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 767–57–0118, dated October 8, 2009. Do all applicable related investigative and corrective actions before further flight.

(2) Do a detailed inspection for foreign objects debris and damage to the wall of the track housing of the outboard slats 1 through 5 and slats 8 through 12, and do all applicable corrective actions, in accordance with Part 3 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 767–57–0118, dated October 8, 2009, except as required by paragraph (h) of this AD. Do all applicable corrective actions before further flight.

Exception to the Service Bulletin

(h) If any damage is found during any inspection required by paragraph (g)(2) of this AD, and Boeing Special Attention Service Bulletin 767–57–0118, dated October 8, 2009, specifies to replace the track housing or contact Boeing for appropriate action: Before further flight, replace the track housing or repair the damage using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

Reporting

(i) Submit a report of positive findings of the inspections required by paragraph (g) of this AD to the Manager, Seattle Aircraft Certification Office (ACO), at the applicable time specified in paragraph (i)(1) or (i)(2) of this AD. The report must include the inspection results, a description of any discrepancies found, the airplane registry, variable or line number, and the number of landings and flight hours on the airplane. Under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120 0056.

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

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

Alternative Methods of Compliance (AMOCs)

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

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

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

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–7945 Filed 4–7–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0376; Directorate Identifier 2009–NM–267–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 777–200, –200LR, –300, and –300ER 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 certain Model 777–200, –200LR, –300, and –300ER series airplanes. This proposed AD would require removing and repairing the sealant at the four lower corners of the wing center section and the four lower t-chord segment gaps on each side of the wing center section. This proposed AD results from reports of fuel leakage from the center tank. We are proposing this AD to detect and correct improperly applied sealant, which could result in the disbonding and displacing of sealant, and

consequent fuel leaks. On the ground, uncontained fuel leakage could result in pooling, and pooling combined with an ignition source could result in a fire.

DATES: We must receive comments on this proposed AD by May 24, 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 proposed 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*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Kevin Nguyen, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6501; fax (425) 917–6590.

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–2010–0376; Directorate Identifier 2009–NM–267–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We have received reports that 7 operators have reported 9 cases of fuel leakage from the center tank on 9 airplanes. These airplanes had accumulated approximately 10 to 10,000 flight hours, 5 to 2,000 flight cycles, and 1 to 26 months in service. The leaks were found at the two aft lower corners of the wing center section and one leak was found at one of the four gaps between the lower t-chord segments on each side of the wing center section. The forward lower corners and the remaining gaps between the t-chord segments are also believed to be susceptible to fuel leakage. The leaks are believed to be the result of improperly applied sealant during production. This condition, if not detected and corrected, could result in failing by the disbonding and displacing of sealant, which can result in fuel leaks of up to 10 gallons per minute. During flight, the fuel would leak into areas that have been designed to accommodate fuel leakage, but on the ground, if the fuel leakage is not contained, it could result in pooling. This pooling combined with an ignition source could result in a fire.

Relevant Service Information

We have reviewed Boeing Special Attention Service Bulletin 777–57–0063, Revision 1, dated May 14, 2009. The service bulletin describes procedures for removing and repairing the sealant at the four lower corners of the wing center section and the four lower t-chord segment gaps on each side of the wing center section.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design. This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD would affect 8 airplanes of U.S. registry. We also estimate that it would take about 10 work-hours per product to comply with this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD to the U.S. operators to be $6,800, or $850 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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.

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

List of Subjects in 14 CFR Part 39

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

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:

The Boeing Company: Docket No. FAA–2010–0376; Directorate Identifier 2009–NM–267–AD.

Comments Due Date

(a) We must receive comments by May 24, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to The Boeing Company Model 777–200, –200LR, –300, and –300ER series airplanes, certificated in any category; as identified in Boeing Special Attention Service Bulletin 777–57–0063, Revision 1, dated May 14, 2009.

Subject

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

Unsafe Condition

(e) This AD results from reports of fuel leakage from the center tank. We are issuing this AD to detect and correct improperly applied sealant, which could result in the disbonding and displacing of sealant, and consequent fuel leaks. On the ground, uncontained fuel leakage could result in pooling, and pooling combined with an ignition source, could result in a fire.

Compliance

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

Removal and Repair of Sealant

(g) Within 36 months or 6,000 flight cycles after the effective date of this AD, whichever occurs first: Remove and repair the sealant at the four lower corners of the wing center section and the four lower t-chord segment gaps on each side of the wing center section, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777–57–0063, Revision 1, dated May 14, 2009.

Credit For Actions Accomplished According to Previous Issue of Service Bulletin

(h) Actions accomplished before the effective date of this AD in accordance with Boeing Special Attention Service Bulletin 777–57–0063, dated November 20, 2008, are considered acceptable for compliance with the corresponding action specified in this AD.

Alternative Methods of Compliance (AMOCs)

(i)(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: Kevin Nguyen, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6501; 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.

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–7946 Filed 4–7–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0095; Airspace Docket No. 10–ASO–18]

Amendment of Class D Airspace; Goldsboro, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class D airspace at Seymour Johnson AFB, Goldsboro, NC, to reflect the part-time operating status of the control tower, enhancing the safety and management of aircraft operations.

DATES: Comments must be received on or before May 24, 2010.

ADDRESSES: Send comments on this proposal to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2010–0095; Airspace Docket No. 10–ASO–18, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov*.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2010–0095; Airspace Docket No. 10–ASO–18) and be submitted in triplicate to the Docket Management System (*see* **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2010–0095; Airspace Docket No. 10–ASO–18." The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://*

www.regulations.gov. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (*see* the **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class D airspace at Seymour Johnson AFB, Goldsboro, NC, to reflect the part-time operations of the airport control tower, establishing in advance the dates and times by a Notice to Airmen.

Class D airspace designations are published in Paragraph 5000 of FAA Order 7400.9T, signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document will be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 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. This proposed rulemaking is promulgated under the authority described in subtitle VII, part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would amend Class D airspace at Seymour Johnson AFB, Goldsboro, NC.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, effective September 15, 2009, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO NC D Goldsboro, NC [Amended]

Seymour Johnson AFB, NC

(Lat. 35°20′22″ N., long. 77°57′38″ W.)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 5.7-mile radius of Seymour Johnson AFB. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Issued in College Park, Georgia, on March 31, 2010.

Barry A. Knight,

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

[FR Doc. 2010–8016 Filed 4–7–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0299 Airspace Docket No. 10–AAL–9]

Proposed Revision of Class E Airspace; Galena, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to revise Class E airspace at Galena, AK. The amendment of three Standard Instrument Approach Procedures (SIAPs), and the development of one Obstacle Departure Procedure (ODP) at the Edward G. Pitka Sr. Airport have made this action necessary to enhance safety and management of Instrument Flight Rules (IFR) operations.

DATES: Comments must be received on or before May 24, 2010.

ADDRESSES: Send comments on the proposal to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2010–0299/Airspace Docket No. 10–AAL–9 at the beginning of your comments. You may also submit comments on the Internet at *http://www.regulations.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, Federal Aviation Administration,

222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/fs/alaskan/rulemaking/.*

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2010–0299/Airspace Docket No. 10–AAL–9." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition, in person in the Federal Docket Management System Office (*see* **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Alaska Flight Services Information Area Group. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14 Code of Federal Regulations (14 CFR) part 71 by revising Class E airspace at Galena, AK, to accommodate a new departure procedure and amended SIAPs at Edward G. Pitka Sr. Airport. This Class E airspace would provide adequate controlled airspace upward from the surface, and from 700 feet above the surface, for the safety and management of IFR operations at Edward G. Pitka Sr. Airport.

The Class E2 surface areas are published in paragraph 6002 in FAA Order 7400.9T, *Airspace Designations and Reporting Points,* signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9T, *Airspace Designations and Reporting Points,* signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be subsequently published in the Order.

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

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes to revise airspace at Galena, Alaska, and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9T, *Airspace Designations and Reporting Points,* signed August 27, 2009, and effective September 15, 2009, is to be amended as follows:

* * * * *

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

AAL AK E2 Galena, AK [Revised]

Edward G. Pitka Sr. Airport, AK
(Lat. 64°44′10″ N., long. 156°56′15″ W.)

Within a 4.2 mile radius of the Edward G. Pitka Sr. Airport, AK.

* * * * *

Paragraph 6005 Class E Airspace Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AAL AK E5 Galena, AK [Revised]

Edward G. Pitka Sr. Airport, AK
(Lat. 64°44′10″ N., long. 156°56′15″ W.)

That airspace extending upward from 700 feet above the surface within a 7.2-mile radius of the Edward G. Pitka Sr. Airport, AK, and within 3.8 miles either side of the 239 bearing from the Edward G. Pitka Sr. Airport, extending from the 7.2-mile radius to 12.9 miles west of the Edward G. Pitka Sr. Airport, and within 2.9 miles either side of the 110 bearing from the Edward G. Pitka Sr. Airport, extending from the 7.2-mile radius to 14.5 miles east of the Edward G. Pitka Sr. Airport; and that airspace extending upward from 1,200 feet above the surface within a 73-mile radius of the Edward G. Pitka Sr. Airport, AK.

Issued in Anchorage, AK, on March 25, 2010.

Anthony M. Wylie,

Manager, Alaska Flight Services Information Area Group.

[FR Doc. 2010–8020 Filed 4–7–10; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2009–0731; FRL–9129–8]

Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Particulate Matter Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Wisconsin State Implementation Plan (SIP) submitted on September 11, 2009. EPA revised its particulate matter standards in October 2006 by strengthening the 24-hour fine particulate standard and revoking the annual standard for course particulate. Wisconsin updated its state rule for ambient air quality standards to match the current Federal standards for particulate matter.

DATES: Comments must be received on or before May 10, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2009–0731, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: compher.michael@epa.gov.*
3. *Fax:* (312) 692–2511.
4. *Mail:* Michael Compher, Acting Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Michael Compher, Acting Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6524, *rau.matthew@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register,** EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives an adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives an adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register.**

Dated: March 11, 2010.

Walter W. Kovalick Jr.,

Acting Regional Administrator, Region 5.

[FR Doc. 2010–7969 Filed 4–7–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2007–0993; FRL–9134–7]

Approval and Promulgation of Implementation Plans; New Mexico; Interstate Transport of Pollution

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve this State Implementation Plan (SIP) revision submitted by the New Mexico Environmental Department (NMED) for the purpose of addressing one element of CAA section 110(a)(2)(D)(i), which pertains to prohibiting air pollutant emissions from within New Mexico from significantly contributing to nonattainment of the ozone and PM2.5 NAAQS in any state. This SIP revision satisfies the State of New Mexico's obligation to submit a SIP revision that demonstrates that adequate provisions are in place to prohibit air emissions from significantly contributing to the nonattainment of another state's air quality through interstate transport. This rulemaking action is being taken under section 110 of the CAA.

DATES: Written comments must be received on or before May 10, 2010.

ADDRESSES: Comments may be mailed to Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Emad Shahin, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–6717; fax number (214) 665–7263; e-mail address *shahin.emad@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the

direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule, which is located in the rules section of this **Federal Register**.

Dated: March 30, 2010.

Al Armendariz,

Regional Administrator, Region 6.

[FR Doc. 2010–7867 Filed 4–7–10; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 75, No. 67
Thursday, April 8, 2010

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

April 5, 2010.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Forest Service

Title: National Woodland Owner Survey.

OMB Control Number: 0596–0078.

Summary of Collection: The Forest and Rangeland Renewable Resources Planning Act of 1974 (Pub. L. 93–278 Sec. 3) and the Forest and Rangeland Renewable Resources Act of 1978 (Pub. L. 307 Sec. 3) are the legal authorities for conducting the National Woodland Owner Survey. The National Woodland Owner Survey collects information to help answer questions related to the characteristics of the landholdings and landowners, ownership objectives, the supply of timber and non-timber products, forest management practices, and delivery of the concerns/constraints perceived by the landowners.

Need and Use of the Information: The Forest Service (FS) will use a long, short or state version of the survey to collect information. Data collected will help FS to determine the opportunities and constraints that private woodland owners typically face; and facilitate planning and implementing forest policies and programs. If the information is not collected the knowledge and understanding of private woodland ownerships and their concerns and activities will be severely limited.

Description of Respondents: Individuals or households; Business or other for-profit; Not-for-profit Institutions; Farms; State, Local or Tribal Government.

Number of Respondents: 5,070.

Frequency of Responses: Reporting: Other (every 5 years).

Total Burden Hours: 2,110.

Forest Service

Title: Operating Plans.

OMB Control Number: 0596–0086.

Summary of Collection: The National Forest Management Act, 16 U.S.C. 472a (14)(c) (Act) requires timber sale operating plans on timber sales that exceed 2 years in length. The regulations at 36 CFR 223.32 have a similar requirement. The operating plans are collected within 60 days of award of timber sale contracts and annually thereafter until harvest is complete. Timber sale purchasers may submit the required information in the form of a chart or letter using surface mail, electronic mail, or via facsimile. The information is based on the timber sale purchaser's business plan.

Need and Use of the Information: Forest Service (FS) will collect information to determine eligibility for additional contract time. There is no prescribed format for the collection of the information. FS officials may have contractors submit operating plans on form FS–2400–67 or in a format chosen by the contractor. In addition, the information is used to plan the agency timber sale contract administration workload and to meet other contract obligations. The information collected includes planned periods and methods of anticipated major activities, including, road construction, timber harvesting, and completion of other contract requirements.

Description of Respondents: Business or other for-profit; Individuals or households.

Number of Respondents: 2,500.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 15,200.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2010–7982 Filed 4–7–10; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Sierra County, CA, Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Sierra County Resource Advisory Committee (RAC) will meet on April 14, 2010, in Sierraville, California. The purpose of the meeting is to discuss issues relating to implementing the Secure Rural Schools and Community Self-Determination Act of 2000 (Payments to States) as reauthorized by Public Law 110–343 and the expenditure of Title II funds benefiting National Forest System lands on the Humboldt-Toiyabe, Plumas and Tahoe National Forests in Sierra County.

DATES: The meeting will be held Wednesday, April 14, 2010 at 10 a.m.

ADDRESSES: The meeting will be held at the Sierraville Ranger Station, 317 S. Lincoln, Sierraville, 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*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Welcome and introductions; (2) Overview of authorizing legislation; (3) Discussion of operating and project approval guidelines; (4) Election of RAC chair; 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: March, 31, 2010.

Tom Quinn,

Forest Supervisor.

[FR Doc. 2010–7725 Filed 4–7–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Lake County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lake County Resource Advisory Committee (RAC) will hold a meeting.

DATES: The meeting will be held on May 13, 2010 from 3 p.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Lake County Board of Supervisor's Chambers at 255 North Forbes Street, Lakeport or Conference Room C.

FOR FURTHER INFORMATION CONTACT: Debbie McIntosh, Committee Coordinator, USDA, Mendocino National Forest, Upper Lake Ranger District, 10025 Elk Mountain Road, Upper Lake, CA 95485. (707) 275–2361: e-mail *dmcintosh@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) RoIl Call/Establish Quorum; (2) Review Minutes from the September 10, 2009 Meeting; (3) Project Review and Discussion; (4) Recommend Projects/Vote; (5) Discuss Project Cost Accounting USFS/County of Lake; (6) Set Next Meeting Date; (7) Public Comment Period; Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time. (8) Adjourn.

Dated: March 22, 2010.

Lee D. Johnson,

Designated Federal Officer.

[FR Doc. 2010–7640 Filed 4–7–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siskiyou County Resource Advisory Committee (RAC) will meet in Yreka, California to discuss routine business associated with requesting proposals consistent with the Secure Rural Schools and Community Self-Determination Act.

DATES: On April 19, 2010, there will be a workshop for the public to understand the process for submitting a project proposal to the RAC. The workshop will start at 2 p.m. and the regular monthly RAC meeting will follow the workshop.

ADDRESSES: The RAC workshop and meeting will be held at the Yreka Holiday Inn Express Conference Center, 707 Montague Road, Yreka, CA 96097.

FOR FURTHER INFORMATION CONTACT: Kerry Greene, Forest RAC Coordinator, Klamath National Forest, (530) 841–4484 or electronically at *kggreene@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Public comment periods will be provided and individuals will have the opportunity to address the Committee.

Dated: March 19, 2010.

Patricia A. Grantham,

Forest Supervisor, Klamath National Forest.

[FR Doc. 2010–7651 Filed 4–7–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

National Tree-Marking Paint Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The National Tree-marking Paint Committee will meet in Colorado Springs, Colorado on May 4–6, 2010. The purpose of the meeting is to discuss activities related to improvements in, concerns about, and the handling and use of tree-marking paint by personnel of the Forest Service and the Department of the Interior, Bureau of Land Management.

DATES: The meeting will be held May 4–6, 2010, from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Colorado Springs Marriott, 5580 Tech Center Drive, Colorado Springs, CO. Persons who wish to file written comments before or after the meeting must send written comments to Dave Haston, Chairman, National Tree-marking Paint Committee, Forest Service, USDA, San Dimas Technology and Development Center, 444 East Bonita Avenue, San Dimas, California 91773, or electronically to *dhaston@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Dave Haston, Sr. Project Leader, San Dimas Technology and Development Center, Forest Service, USDA, 909–599–1267, extension 294 or *dhaston@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The National Tree-marking Paint Committee comprises representatives from the Forest Service national headquarters, each of the nine Forest Service regions, the Forest Products Laboratory, the Forest Service San Dimas Technology and Development Center, and the Bureau of Land Management. The National Institute for Occupational Safety and Health is an ad hoc member and provides technical advice to the committee.

A field trip will be held on May 4 and is designed to supplement information related to tree-marking paint. This trip is open to any member of the public participating in the public meeting on May 5–6. However, transportation is provided only for committee members.

The main session of the meeting, which is open to public attendance, will be held on May 5–6.

Closed Sessions

While certain segments of this meeting are open to the public, there will be two closed sessions during the meeting. The first closed session is planned for approximately 10 a.m. to 12 p.m. on May 5, 2010. This session is reserved for individual paint manufacturers to present products and information about tree-marking paint for consideration in future testing and use by the agency. Paint manufacturers also may provide comments on tree-marking paint specifications or other requirements. This portion of the meeting is open only to paint manufacturers, the Committee, and Committee staff to ensure that trade secrets will not be disclosed to other paint manufacturers or to the public. Paint manufacturers wishing to make

presentations to the Tree-marking Paint Committee during the closed session should contact the Committee Chairperson at 909–599–1267, extension 294. The second closed session is planned for approximately 9 a.m. to 11 a.m. on May 6, 2010. This session is reserved for Steering Committee members only.

Any person with special access needs should contact the Chairperson to make those accommodations. Space for individuals who are not members of the National Tree-marking Paint Committee is limited and will be available to the public on a first-come, first-served basis.

Dated: March 30, 2010.

Faye L. Krueger,

Acting Associate Deputy Chief, NFS.

[FR Doc. 2010–8002 Filed 4–7–10; 8:45 am]

BILLING CODE 3410–11–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Connecticut Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights and the Federal Advisory Committee Act, that a briefing meeting and planning meeting of the Connecticut State Advisory Committee will convene at 9:30 a.m. on Tuesday, April 13, 2010 in a Hearing Group Room 2C, located in the Legislative Building, 210 Capitol Ave., in Hartford, Connecticut. The purpose of the meeting is to hear from education experts and advocates about school choice, high school attainment rates, and civil rights.

Members of the public are entitled to submit written comments; the comments must be received in the regional office by May 13, 2010. The address is Eastern Regional Office, 624 9th St., NW., Washington, DC 20425. Persons wishing to e-mail their comments, or who desire additional information should contact the Eastern Regional Office at 202–376–7533 or by e-mail to: *ero@usccr.gov.*

Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

Records generated from this meeting may be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *http://www.usccr.gov,* or to contact the Eastern Regional Office at the above e-mail or street address.

The meeting will be conducted pursuant to the rules and regulations of the Commission and FACA.

Dated in Washington, DC, April 5, 2010.

Peter Minarik,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2010–7997 Filed 4–7–10; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Notice

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of meeting.

DATE AND TIME: Friday, April 16, 2010; 9:30 a.m. EDT.

PLACE: 624 9th St., NW., Room 540, Washington, DC 20425.

Meeting Agenda

This meeting is open to the public, except where noted otherwise.

I. Approval of Agenda

II. Program Planning

- Approval of Briefing Report on Discrimination Against Native Americans in Border Towns
- Approval of Findings and Recommendations for Briefing Report on the Educational Effectiveness of Historically Black Colleges and Universities
- Approval of Letter to Youngstown, Ohio City Council Members re: Racially Bifurcated Test Results in the Police and Fire Departments
- Consideration Briefing Concept Paper on Attack Against Asian-American Students at South Philadelphia High School
- Discussion of Staff Level Meeting with EEOC re: its Compliance with Request for Documents Related to Civil Rights Enforcement
- Discussion of SEC Response to Document Request on its New Corporate Disclosure Rule re: Diversity
- Discussion of Timetable for Briefing Reports
- Update on National Civil Rights Conference
- Update on Status of 2010 Enforcement Report & Scheduled Hearing—Some of the discussion of this agenda item may be held in closed session.
- Update on Status of Title IX Project—Some of the discussion of this agenda item may be held in closed session.

III. State Advisory Committee Issues

- Colorado SAC
- New Jersey SAC
- South Carolina SAC
- Washington State SAC

IV. Staff Director's Report

V. Adjourn

CONTACT PERSON FOR FURTHER INFORMATION: Lenore Ostrowsky, Acting Chief, Public Affairs Unit (202) 376–8591. TDD: (202) 376–8116.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Pamela Dunston at least seven days prior to the meeting at 202–376–8105. *TDD:* (202) 376–8116.

Dated: April 6, 2010.

David Blackwood,

General Counsel.

[FR Doc. 2010–8149 Filed 4–6–10; 4:15 pm]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 25–2010]

Foreign-Trade Zone 144—Brunswick, GA; Application for Expansion and Reorganization Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Brunswick and Glynn County Development Authority, grantee of FTZ 144, requesting authority to expand the zone and reorganize under the alternative site framework (ASF) adopted by the Board (74 FR 1170, 01/12/09; correction 74 FR 3987, 01/22/09). The ASF is an option for grantees for the establishment or reorganization of general-purpose zones and can permit significantly greater flexibility in the designation of new "usage-driven" FTZ sites for operators/users located within a grantee's "service area" in the context of the Board's standard 2,000-acre activation limit for a general-purpose zone project. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 1, 2010.

FTZ 144 was approved by the Board on August 6, 1987 (Board Order 361, 52 FR 30699, 08/17/87) and reorganized on March 13, 2007 (Board Order 1505, 72 FR 13080, 03/20/07).

The current zone project includes the following sites: Site 1 (95 acres within 687-acre park)—Tradewinds Industrial

Park at I–95 between exits 38 and 41, Brunswick; *Site 2* (61 acres)—Georgia Ports Authority Terminal, located east and west of Joe Frank Boulevard, Brunswick; *Site 3* (17 acres)—MAP International Distribution Center, 4700 Glynco Parkway, Brunswick. Site 3 was approved on a temporary basis pursuant to the minor boundary modification provision of the FTZ regulations (15 CFR 400.27(f)), effective for a period ending March 31, 2012.

The grantee's proposed service area under the ASF would be Appling, Atkinson, Brantley, Camden, Charlton, Coffee, Glynn, Jeff Davis, McIntosh, Ware and Wayne Counties, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is within and adjacent to the Brunswick Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize and expand its existing zone project to include Sites 1 and 2 as "magnet" sites and to add additional acreage to Sites 1 and 2. The applicant is requesting authority to include the entire 687-acre Tradewinds Industrial Park within Site 1 and to expand Site 2 to include a total of 2,016 acres owned by the Georgia Ports Authority Terminal, Mercedes-Benz USA, and International Auto Processing. The ASF allows for the possible exemption of one magnet site from the "sunset" time limits that generally apply to sites under the ASF, and the applicant proposes that Site 1 be so exempted. The applicant is also requesting to include Site 3 as a "usage-driven" site. Because the ASF only pertains to establishing or reorganizing a general-purpose zone, the application would have no impact on FTZ 144's authorized subzone.

In accordance with the Board's regulations, Kathleen Boyce of the FTZ staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address listed below. The closing period for their receipt is June 7, 2010. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period June 22, 2010.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230–0002, and in the "Reading Room" section of the Board's Web site, which is accessible via *www.trade.gov/ftz.* For further information, contact Kathleen Boyce at *Kathleen.Boyce@trade.gov* or (202) 482–1346.

Dated: April 1, 2010.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2010–8054 Filed 4–7–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Stellwagen Bank National Marine Sanctuary Advisory Council

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The ONMS is seeking applicants for the following seats on the Stellwagen Bank National Marine Sanctuary Advisory Council: Member and Alternate two-year terms for (1) Research; (1) Conservation; (1) Whale Watching; (1) Fixed Gear Commercial Fishing; (1) Diving; (1) At-Large; (1) Education (Alternate only); and (1) Business and Industry (Member only). Additionally seeking applications for three-year terms for (1) Conservation (Member only) and (1) Mobile Gear Commercial Fishing (Alternate only) seats. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the sanctuary. Applicants who are chosen as members should expect to serve two and three year terms, pursuant to the Council's Charter. The Council consists also of three state and three federal non-voting ex-officio seats.

DATES: Applications are due by 1 June 2010.

ADDRESSES: Application kits may be obtained from *Elizabeth.Stokes@noaa.gov,* Stellwagen Bank National Marine Sanctuary, 175 Edward Foster Road, Scituate, MA 02066. Telephone 781–545–8026. Completed applications should be sent to the same address or e-mail, or faxed to 781–545–8036.

FOR FURTHER INFORMATION: Contact *Nathalie.ward@noaa.gov,* External Affairs Coordinator, telephone: 781–545–8026.

SUPPLEMENTARY INFORMATION: The Council was established in March 2001 to assure continued public participation in the management of the Sanctuary. The Council's 23 members represent a variety of local user groups, as well as the general public, plus seven local, state and federal government agencies. Since its establishment, the Council has played a vital role in advising NOA on critical issues and is currently focused on the sanctuary's final five-year Management Plan.

The Stellwagen Bank National Marine Sanctuary encompasses 842 square miles of ocean, stretching between Cape Ann and Cape Cod. Renowned for its scenic beauty and remarkable productivity, the sanctuary supports a rich diversity of marine life including 22 species of marine mammals, more than 30 species of seabirds, over 60 species of fishes, and hundreds of marine invertebrates and plants.

Authority: 16 U.S.C. 1431, *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: March 29, 2010.

Daniel J. Basta,

Director, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2010–7910 Filed 4–7–10; 8:45 am]

BILLING CODE 3510–NK–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Gray's Reef National Marine Sanctuary Advisory Council

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The ONMS is seeking applications for the following vacant seats on the Gray's Reef National Marine Sanctuary Advisory Council: Georgia conservation and living resources research. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community

and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the sanctuary. Applicants who are chosen as members should expect to serve 3-year terms, pursuant to the council's Charter.

DATES: Applications are due by May 15, 2010.

ADDRESSES: Application kits may be obtained from Becky Shortland, Council Coordinator (*becky.shortland@noaa.gov,* 10 Ocean Science Circle, Savannah, GA 31411; 912–598–2381) Completed applications should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Becky Shortland, Council Coordinator (*becky.shortland@noaa.gov,* 10 Ocean Science Circle, Savannah, GA 31411; 912–598–2381).

SUPPLEMENTARY INFORMATION: The sanctuary advisory council was established in August 1999 to provide advice and recommendations on management and protection of the sanctuary. The advisory council, through its members, also serves as liaison to the community regarding sanctuary issues and represents community interests, concerns, and management needs to the sanctuary and NOAA.

Authority: 16 U.S.C. 1431, *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: March 29, 2010.

Daniel J. Basta,

Director, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2010–7901 Filed 4–7–10; 8:45 am]

BILLING CODE 3510–NK–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV25 and 0648–XV50

Western Pacific Fishery Management Council; Public Meeting; Corrections

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

ACTION: Notice of corrections to two public meeting notices.

SUMMARY: NMFS published a document in the **Federal Register** on March 17, 2010 notifying the public that the Western Pacific Fishery Management Council (Council) will hold a public meeting to address the longline fishery issues and the future of longline fisheries in the Western Pacific Region on Tuesday and Wednesday, April 6 and 7, 2010, from 8:30 a.m. to 5 p.m. The document contained incorrect dates. NMFS also published a document in the **Federal Register** on March 26, 2010 that the Council will hold the Hawaii Regional Ecosystem Advisory Committee (REAC) on Tuesday April 13, 2010. The document contained an incorrect date.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: This document corrects the date and time of the public meeting to address the longline fishery issues and the future of longline fisheries in the Western Pacific Region noticed in the **Federal Register** of March 17, 2010, in FR Doc. Volume 75, No. 51 on page 12733–12734. The dates and time of the public meeting should read April 27–28, 2010, 8:30 a.m. to 5 p.m. This document also corrects the date and time of the Hawaii REAC noticed in the **Federal Register** of March 26, 2010, in FR Doc. Volume 75, No. 58 on page 14571–14572. The dates and time of the Hawaii REAC should read May 6, 2010, 9 a.m. to 4 p.m.

All other information published previously remains unchanged.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 5, 2010.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–7992 Filed 4–7–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV68

Fisheries of the South Atlantic, Gulf of Mexico, and Caribbean; Southeastern Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR Steering Committee meeting.

SUMMARY: The SEDAR Steering Committee will meet to discuss the SEDAR assessment schedule and the SEDAR process. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR Steering Committee will meet on Monday, May 17, 2010, from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Hotel Captain Cook, 939 West 5th Avenue, Anchorage, AK 99501.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: John Carmichael, SEDAR Program Manager, SEDAR/SAFMC, 4055 Faber Place, Suite 201, North Charleston, SC 29405; telephone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520.

SUPPLEMENTARY INFORMATION: The South Atlantic, Gulf of Mexico, and Caribbean Fishery Management Councils; in conjunction with NOAA Fisheries, the Atlantic States Marine Fisheries Commission, and the Gulf States Marine Fisheries Commission; implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks. The SEDAR Steering Committee meets annually to provide oversight of the SEDAR process, establish assessment priorities, and provide coordination between assessment efforts and management activities. During this meeting the Steering Committee will receive reports on recent SEDAR activities, consider benchmark and update assessment scheduling for 2010–2015, and discuss the SEDAR budget, conflict of interest policies, and procedural issues.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the South Atlantic Fishery Management Council office at the address listed above at least 15 business days prior to the meeting.

Dated: April 5, 2010.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–7993 Filed 4–7–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV70

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Coastal Pelagic Species Management Team (CPSMT) will hold a meeting that is open to the public.

DATES: The CPSMT will meet Tuesday, April 27, 2010, through Friday, April 30, 2010. The meeting will begin each day at 8:30 a.m. and conclude at 5 p.m. or until business is completed each day.

ADDRESSES: The CPSMT meeting will be held at the Pacific Fishery Management Council Offices, Large Conference Room, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220; telephone: (503) 820–2280.

FOR FURTHER INFORMATION CONTACT: Kerry Griffin, Staff Officer; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to develop alternative amendments to the Pacific Council's Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) in response to new requirements of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) including, overfishing levels (OFLs), acceptable biological catch (ABC), and annual catch limits (ACLs). The CPSMT will discuss CPS FMP amendment alternatives and develop a work plan for completing review materials for the June 2010 meeting of the Pacific Council. The CPSMT will also discuss the pending Essential Fish Habitat five-year review; the 2010 Stock Assessment and Fishery Evaluation document; Pacific mackerel research and management; and other issues relating to CPS management.

Although non-emergency issues not contained in the meeting agenda may come before the CPSMT for discussion, those issues may not be the subject of formal CPSMT action during this meeting. CPSMT 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 CPSMT's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: April 5, 2010.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–7995 Filed 4–7–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV71

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a three-day Council meeting on April 27–29, 2010 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will begin on each of the three days at 8:30 a.m.

ADDRESSES: The meeting will be held at the Mystic Hilton Hotel, 20 Coogan Boulevard, Mystic, CT 06355; telephone: (860) 572–0731; fax: (860) 572–0328.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Tuesday, April 27, 2010

Following any introductions and announcements, the Council meeting will begin with a series of brief reports from the Council Chairman and Executive Director, the NOAA Fisheries Northeast Regional Administrator, Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, as well as NOAA General Counsel, representatives of the U.S. Coast Guard and the Atlantic States Marine Fisheries Commission and NOAA Enforcement. These reports will be followed by a review of any experimental fishery permit applications that have been received since the last Council meeting. There will be a brief review of several policy changes to the Council's Handbook and a vote on those changes. The Herring Committee will then report on the details of its recommendation concerning the timing of the next Atlantic herring benchmark assessment, as well as provide the full Council with an overview of discussions to date on the development of Amendment 5 to the Atlantic Herring Fishery Management Plan (FMP). Following a lunch break the Habitat Committee will review the development of Omnibus Amendment 2 management alternatives to minimize any adverse effects of fishing on essential fish habitat. The Monkfish Committee will ask for approval of final action on Amendment 5 to the Monkfish FMP. Measures under consideration include annual catch limits and accountability measures, along with days-at-sea and trip limits for 2011–2013 and other modifications.

Wednesday, April 28, 2010

The second day of the Council meeting will begin with a review of the most recent Interspecies Committee discussions. Topics will include fishery management plan restructuring and/or consolidation; setting accumulation limits for the Northeast multispecies fishery, including possible control dates for the limits to become effective; and a committee work plan.

There will be a presentation by scientists from the Universities of CT and RI titled "Goals and Concerns of Fishery Stakeholder in the Development of Catch Share Management in NE." The Council's Scientific and Statistical Committee (SSC) will report after a lunch break on its recommendations for revised skate and red crab Acceptable Biological Catch levels. The Council will consider action for both the Skate and Red Crab FMPs after the SSC report. Fishery management measures in each plan may be modified.

Thursday, April 29, 2010

The Council's Groundfish Committee will discuss and possibly select alternative rebuilding strategies for

Georges Bank yellowtail flounder as well as the vessel buyback provisions in the reauthorized Magnuson-Stevens Fishery Conservation and Management Act. During this report the Council also will consider a process for the approval of additional management sectors in the Northeast multispecies fishery for 2011. Following this agenda item, the there will be an open period for public comments on issues related to fisheries management issues, but not listed on the meeting agenda. During the afternoon session, the Council plans on an update from the Joint Groundfish/Scallop Committee. The committee has been tasked with development of an amendment to facilitate the transfer of groundfish landings between the multispecies and scallop fisheries. Draft goals and objectives and initial identification of measures may be included under this topic. Before meeting adjournment, the Council may address any other outstanding business related to this meeting.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council 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 Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: April 5, 2010.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–7996 Filed 4–7–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV69

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold meetings of its Pelagics Plan Team (PPT) in Honolulu, HI to discuss fishery issues and develop recommendations for future management.

DATES: The meeting of the PPT will be held on April 29–30, 2010, from 8:30 a.m. to 5 p.m. each day.

ADDRESSES: The meeting will be held at the Council Office Conference Room, Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813; telephone: (808) 522–8220.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: The PPT will meet between April 29–30, 2010 at the Council Conference Room to discuss the following agenda items:

Thursday, April 29, 2010, 8:30 a.m.

1. Introduction
2. Annual Report review
a. Review 2009 Annual Report modules and recommendations
i. CNMI
ii. American Samoa
iii. Guam
iv. Hawaii
v. International
vi. Recreational
b. 2009 Annual Report region wide recommendations

Friday, April 30, 2010, 8.30 a.m.

3. Summary of current FMP amendment actions
4. Western & Central Pacific Fishery Commission requirements for operational-level catch and effort data
5. Catch and bycatch effects of large circle hooks in a tuna longline fishery
6. False Killer Whale Take Reduction Team
7. Annual Catch Limit Ecosystem Components Species for Pelagics Fishery Ecosystem Plan
8. Longline fishery meeting
9. Other business
10. Public comments
11. Pelagic Plan Team Recommendations

The order in which the agenda items are addressed may change. The PPT will meet as late as necessary to complete scheduled business.

Although non-emergency issues not contained in this agenda may come before the PPT for discussion, those issues may not be the subject of formal action during these meetings. Plan Team action will be restricted to those issues specifically listed in this document and any issue arising after publication of this document that requires emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council(s intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 5, 2010.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–7994 Filed 4–7–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–966]

Drill Pipe from the People's Republic of China: Notice of Postponement of Preliminary Determination in the Countervailing Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 8, 2010.

FOR FURTHER INFORMATION CONTACT: Eric B. Greynolds, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–6071.

SUPPLEMENTARY INFORMATION:

Background

On January 20, 2010, the Department of Commerce (Department) initiated the countervailing duty investigation of drill pipe from the People's Republic of China. *See Drill Pipe from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 75 FR 4345 (January 27, 2010) (Initiation). Currently, the preliminary determination is due no later than April 2, 2010.[1]

[1] We note that the original deadline of the preliminary determination was March 26, 2010. However, as a result of the snowstorms that occurred in the Washington, D.C., area during the

Postponement of Due Date for Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary determination in a countervailing duty investigation within 65 days after the date on which the Department initiated the investigation. However, if the Department concludes that the parties concerned in the investigation are cooperating and determines that the investigation is extraordinarily complicated, section 703(c)(1)(B) of the Act allows the Department to postpone making the preliminary determination until no later than 130 days after the date on which the administering authority initiated the investigation.

The Department has determined that the parties involved in the proceeding are cooperating and that the investigation is extraordinarily complicated. See section 703(c)(1)(B) of the Act. Specifically, the Department is currently investigating alleged subsidy programs involving loans, grants, income tax incentives, and the provision of goods or services for less than adequate remuneration. Due to the number and complexity of the alleged countervailable subsidy practices being investigated, it is not practicable to complete the preliminary determination of this investigation within the original time limit (*i.e.*, by April 2, 2010). Therefore, in accordance with section 703(c)(1)(B) of the Act, we are fully extending the due date for the preliminary determination to no later than 137 days after the day on which the investigation was initiated.[2] However, as that date falls on a Saturday, the deadline for completion of the preliminary results is now June 7, 2010, the next business day.

This notice is issued and published pursuant to section 703(c)(2) of the Act.

month of February 2010, this deadline was tolled 7 days pursuant to the Memorandum issued by the Deputy Assistant Secretary for Import Administration. *See* Memorandum to the Record from Ronald K Lorentzen, Deputy Assistant Secretary for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010 (Tolling Memorandum) a public document on the record of this proceeding that is available in room 1117 of the Central Records Unit (CRU) of the main Commerce Building.

[2] Normally, under section 703(c)(1)(B) of the Act, the Department extends the due date of a preliminary determination to no later than 130 days after the day on which the investigation was initiated. However, pursuant to the Tolling Memorandum, we are extending the due date of the preliminary determination to no later than 137 days after the day on which the Department initiated the investigation.

Dated: April 2, 2010.

John M. Andersen,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–8056 Filed 4–7–10; 8:45 am]

BILLING CODE 3510–DS–S

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Thursday, April 15, 2010; 2 p.m.–4 p.m.

PLACE: Room 410, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED

Compliance Weekly Report—Commission Briefing

The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–7948.

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814 (301) 504–7923.

Dated: April 6, 2010.

Todd A. Stevenson,

Secretary.

[FR Doc. 2010–8139 Filed 4–6–10; 4:15 pm]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Thursday, April 15, 2010, 9 a.m.–11 a.m.

PLACE: Room 410, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Commission Meeting—Open to the Public.

MATTERS TO BE CONSIDERED:

1. *Pending Decisional Matter:* Public Database—Notice of Proposed Rulemaking (NPR).

A live webcast of the Meeting can be viewed at *http://www.cpsc.gov/webcast/index.html*.

For a recorded message containing the latest agenda information, call (301) 504–7948.

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814 (301) 504–7923.

Dated: April 6, 2010.

Todd A. Stevenson,

Secretary.

[FR Doc. 2010–8141 Filed 4–6–10; 4:15 pm]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Federal Advisory Committee; Defense Health Board (DHB) Meeting

AGENCY: Department of Defense (DoD).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix as amended), the Sunshine in the Government Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, and in accordance with section 10(a)(2) of Public Law, the Defense Health Board (DHB) announces that it will meet on June 8 and 9, 2010. Subject to the availability of space, the meeting is open to the public on June 8 from 9:30 a.m. to 12:30 p.m. and from 1:45 p.m. to 5 p.m.

DATES: The meeting will be held:

June 8, 2010

7:30 a.m.–9:15 a.m. (Closed, Administrative Working Meeting).
9:30 a.m.–12:30 p.m. (Open Session).
12:30 p.m.–1:45 p.m. (Closed, Administrative Working Meeting).
1:45 p.m.–5 p.m. (Open Session).

June 9, 2010

8 a.m.–2 p.m. (Closed Session).

ADDRESSES: The June 8 meeting will be held at the Sheraton National Hotel, 900 South Orme Street, Arlington, VA 22204.

The June 9 meeting will be held at the Industrial College of the Armed Forces, Fort McNair, Washington, DC.

Written statements may be mailed to the address under **FOR FURTHER INFORMATION CONTACT**, e-mailed to *dhb@ha.osd.mil* or faxed to (703) 681–3317.

FOR FURTHER INFORMATION CONTACT: Commander Edmond F. Feeks, Executive Secretary, Defense Health Board, Five Skyline Place, 5111 Leesburg Pike, Suite 810, Falls Church, Virginia 22041–3206, (703) 681–8448, EXT. 1228, Fax: (703) 681–3317, *edmond.feeks@tma.osd.mil.*

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting

The purpose of the meeting is to address and deliberate pending and new Board issues and provide briefings for Board members on topics related to ongoing Board business.

Agenda

On June 8, 2010, the DHB will receive briefings on military health needs and priorities. The following Defense Health Board Subcommittees will present updates to the Board: Department of Defense Task Force on the Prevention of Suicide by Members of the Armed Forces and the Military Occupational/Environmental Health and Medical Surveillance Subcommittee. Additionally, the Board will receive briefs regarding Convalescent Plasma Therapy, DoD Operations, and the Defense and Veterans Pain Management Initiative. The Board may also vote on issues presented by the Psychological Health External Advisory Subcommittee and the Trauma and Injury Subcommittee.

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155, in the interest of national security, the Department of Defense has determined that the meeting on June 9, 2010 will be closed to the public. The Under Secretary of Defense (Personnel and Readiness), in consultation with the Office of the DoD General Counsel, has determined in writing that the public interest requires that the session on June 9, 2010 be closed to the public because it will concern matters listed in section 552b(c)(1) of title 5, United States Code. Specifically, the information presented meets criteria established by an executive order to be kept secret in the interest of national defense and foreign policy.

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165 and subject to availability of space, the Defense Health Board meeting from 9:30 a.m. to 12:30 p.m. and from 1:45 p.m. to 5 p.m. on June 8, 2010 is open to the public. The public is encouraged to register for the meeting.

Additional information, agenda updates, and meeting registration are available online at the Defense Health Board Web site, *http://www.health.mil/dhb/default.cfm*.

Written Statements

Any member of the public wishing to provide input to the Defense Health Board should submit a written statement in accordance with 41 CFR 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act, and the procedures described in this notice. Written statement should be no longer than two type-written pages and must address the following detail: The issue, discussion, and a recommended course of action. Supporting documentation may also be included as needed to establish the appropriate historical context and to provide any necessary background information.

Individuals desiring to submit a written statement may do so through the Board's Designated Federal Officer (*see* **FOR FURTHER INFORMATION CONTACT**) at any point. If the written statement is not received at least 10 calendar days prior to the meeting, which is subject to this notice, then it may not be provided to or considered by the Defense Health Board until the next open meeting.

The Designated Federal Officer will review all timely submissions with the Defense Health Board Chairperson, and ensure they are provided to members of the Defense Health Board before the meeting that is subject to this notice. After reviewing the written comments, the Chairperson and the Designated Federal Officer may choose to invite the submitter of the comments to orally present their issue during an open portion of this meeting or at a future meeting.

The Designated Federal Officer, in consultation with the Defense Health Board Chairperson, may, if desired, allot a specific amount of time for members of the public to present their issues for review and discussion by the Defense Health Board.

Special Accommodations

If special accommodations are required to attend (sign language, wheelchair accessibility) please contact Ms. Lisa Jarrett at (703) 681–8448 ext. 1280 by May 28, 2010.

Dated: April 5, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–7964 Filed 4–7–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2010–OS–0038]

Privacy Act of 1974; System of Records

AGENCY: Defense Intelligence Agency, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Defense Intelligence Agency is proposing to alter a system in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on May 10, 2010, unless comments are received that would result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Theresa Lowery at (202) 231–1193.

SUPPLEMENTARY INFORMATION: The Defense Intelligence Agency system of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the Defense Intelligence Agency, DAN 1–C, 600 MacDill Blvd., Washington, DC 20340–5100.

The proposed system report, as required by 5 U.S.C. 552a of the Privacy Act of 1974, as amended, was submitted on March 26, 2010, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996; 61 FR 6427).

Dated: April 5, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

LDIA 07–0004

SYSTEM NAME:

Secure Facilities Repository Records (November 14, 2007; 72 FR 64054).

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "DIA Civilians, contractors, and military and other DoD personnel not permanently assigned to DIA."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Individual's full name and employee identification number."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "DoD 5200.2R, Personnel Security Programs; Director of Central Intelligence DCI Directive 6–4, Personnel Standards and Procedures for access to Special Compartmented Information; DIA Manual 50–8, Personnel Security Program; DIA Manual 50–14, Security Investigations."

PURPOSE(S):

Delete entry and replace with "To process and generate firearms program records and maintain training records for those who receive training from the Security Education and Awareness Branch."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS:

Delete entry and replace with "In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the Department of Defense as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the DIA's compilation of systems of records notices apply to this system."

* * * * *

RETRIEVABILITY:

Delete entry and replace with "Last name and employee identification number."

SAFEGUARDS:

Delete entry and replace with "Records are stored in office buildings protected by guards, controlled screenings, use of visitor registers, electronic access, and/or locks. Access to records is limited to individuals who are properly screened and cleared on a need-to-know basis in the performance of their duties. Passwords and User IDs are used to control access to the system data, and procedures are in place to deter and detect browsing and unauthorized access. Physical and electronic access is limited to persons responsible for servicing and authorized to use the system."

RETENTION AND DISPOSAL:

Delete entry and replace with "Records are temporary; destroy when 5 years old or 5 years after completion of a specific training program. Electronic records are deleted from the system."

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the DIA Freedom of Information Office (DAN–1A), Defense Intelligence Agency, 200 MacDill Blvd., Washington, DC 20340–5100.

Request should contain the individual's full name, current address, telephone number and Social Security Number (SSN)."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system of records, should address written inquiries to the DIA Freedom of Information Office (DAN–1A), 200 MacDill Blvd., Washington, DC 20340–5100.

Request should contain the individual's full name, current address, telephone number and Social Security Number (SSN)."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "DIA's rules for accessing records, for contesting contents and appealing initial agency determinations are published in DIA Instruction 5400.001 "Defense Intelligence Agency Privacy Program"; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Individual and records migration from the Agency Human Resources Management System."

* * * * *

LDIA 07–0004

SYSTEM NAME:

Secure Facilities Repository Records.

SYSTEM LOCATION:

Defense Intelligence Agency, 200 MacDill Boulevard, Washington, DC 20340–0001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DIA Civilians, contractors, and military and other DoD personnel not permanently assigned to DIA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's full name and employee identification number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

DoD 5200.2R, Personnel Security Programs; Director Of Central Intelligence DCI Directive 6–4, Personnel Standards and Procedures for access to Special Compartmented Information; DIA Manual 50–8, Personnel Security Program; DIA Manual 50–14, Security Investigations.

PURPOSE(S):

To process and generate firearms program records and maintain training records for those who receive training from the Security Education and Awareness Branch.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the Department of Defense as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD "Blanket Routine Uses" set forth at the beginning of the DIA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Last name, and employee identification number.

SAFEGUARDS:

Records are stored in office buildings protected by guards, controlled screenings, use of visitor registers, electronic access, and/or locks. Access to records is limited to individuals who are properly screened and cleared on a need-to-know basis in the performance of their duties. Passwords and User IDs are used to control access to the system data, and procedures are in place to deter and detect browsing and unauthorized access. Physical and electronic access is limited to persons responsible for servicing and authorized to use the system.

RETENTION AND DISPOSAL:

Records are temporary; destroy when 5 years old or 5 years after completion of a specific training program. Electronic records are deleted from the system.

SYSTEM MANGER(S) AND ADDRESS:

Chief, Security Operations Division, Defense Intelligence Agency, 200 MacDill Blvd., Washington, DC 20340–0001

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the DIA Freedom of Information Office (DAN–1A), Defense Intelligence Agency, 200 MacDill Blvd., Washington, DC 20340–5100.

Request should contain the individual's full name, current address, telephone number and Social Security Number (SSN).

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves, contained in this system of records, should address written inquiries to the DIA Freedom of Information Office (DAN–1A), 200 MacDill Blvd., Washington, DC 20340–5100.

Request should contain the individual's full name, current address, telephone number and Social Security Number (SSN).

CONTESTING RECORD PROCEDURES:

DIA's rules for accessing records, for contesting contents and appealing initial agency determinations are published in DIA Instruction 5400.001 "Defense Intelligence Agency Privacy Program"; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual's, and records migration from the Agency Human Resources Management System.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2010–7960 Filed 4–7–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2010–OS–0041]

Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice to amend a system of records.

SUMMARY: The Defense Logistics Agency proposes to amend a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on May 10, 2010 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is of make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Jody Sinkler at (703) 767–5045.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Stop 16443, Fort Belvoir, VA 22060–6221.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendment is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports.

Dated: April 5, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S500.30 CAAS

SYSTEM NAME:

Incident Investigation/Police Inquiry Files (November 16, 2004; 69 FR 67112).

CHANGES:

SYSTEM IDENTIFIER:

Delete "CAAS" from entry.

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Public Safety and Security Office, Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221, and the Public Safety and Security Offices of the Defense Logistics Agency (DLA) Field Activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add ", as amended" after (SSN).

PURPOSE(S):

Delete entry and replace with "The record information related to investigations of or inquiries into incidents under DLA jurisdiction. Records may be used to make decisions with respect to disciplinary action and/or suitability for employment; to bar individuals from entry to DLA facilities or installations; to evaluate the adequacy of existing physical security safeguards; and to perform similar functions with respect to maintaining a secure workplace. Statistical data, with all personal data removed, may be provided to other offices for purposes of reporting, planning, training, vulnerability assessment, awareness, and similar administrative endeavors. Complaints appearing to involve criminal wrongdoing are referred to the appropriate criminal investigative organization for investigation and disposition."

* * * * *

STORAGE:

Delete entry and replace with "Paper files and electronic storage media."

* * * * *

SAFEGUARDS:

Delete entry and replace with "Records are maintained in areas accessible only to DLA Headquarters and Field Activities security and staff personnel who use the records to perform their duties. All records are maintained on closed military installations with security force personnel performing installation access control and random patrols. Common Access Cards and personal identification numbers are used to authenticate authorized desktop and laptop computer users. Computer

servers are scanned monthly to assess system vulnerabilities. Systems security updates are accomplished daily. The computer files are password protected with access restricted to authorized users with a need for the information. Records are secured in locked or guarded buildings, locked offices, or locked cabinets during non duty hours, with access restricted during duty hours to authorized users with a need for the information."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Program Manager, Law Enforcement Operations, Headquarters, Defense Logistics Agency, Office of Public Safety, 8725 John J. Kingman Road, Suite 3533, Fort Belvoir, VA 22060–6220, and the Security Managers within the DLA Field Activity responsible for the operation of security forces and staff at the DLA Field Activity. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Individuals are required to provide name, Social Security Number (SSN), employing activity name and address, and, if known, place of investigation.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed without the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Individuals are required to provide name, Social Security Number (SSN), employing activity name and address, and, if known, place of investigation.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed without the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the system manager."

* * * * *

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Delete third paragraph and replace with "An exemption rule for this exemption has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 323. For additional information contact the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221."

* * * * *

S500.30

SYSTEM NAME:

Incident Investigation/Police Inquiry Files.

SYSTEM LOCATION:

Public Safety and Security Office, Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221, and the Public Safety and Security Offices of the Defense Logistics Agency Field Activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been the subject of a non-criminal investigation or police inquiry into incidents occurring on DLA-controlled facilities or installations. The system also covers incidents at other locations that involve individuals assigned to or employed by DLA or employed by agencies that receive security and police force services from DLA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain case number, name of subject, Social Security Number (SSN), address, telephone number, and details of the incident or inquiry; the investigative report containing details of the investigation, relevant facts discovered, information received from sources and witnesses, the investigator's findings, conclusions, and recommendations; and case disposition details.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. 303(b), Oath to Witnesses; 10 U.S.C. 133, Under Secretary of Defense for Acquisition and Technology; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

To record information related to investigations of or inquiries into incidents under DLA jurisdiction. Records may be used to make decisions with respect to disciplinary action and/or suitability for employment; to bar individuals from entry to DLA facilities or installations; to evaluate the adequacy of existing physical security safeguards; and to perform similar functions with respect to maintaining a secure workplace. Statistical data, with all personal data removed, may be provided to other offices for purposes of reporting, planning, training, vulnerability assessment, awareness, and similar administrative endeavors. Complaints appearing to involve criminal wrongdoing are referred to the appropriate criminal investigative organization for investigation and disposition.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records or information contained therein may specifically be disclosed outside the DOD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To Federal, State, and local agencies that administer programs or employ individuals involved in an incident or inquiry.

The DoD "Blanket Routine Uses" also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files and electronic storage media.

RETRIEVABILITY:

Records are retrieved by name of subject, subject matter, and by case number.

SAFEGUARDS:

Records are maintained in areas accessible only to DLA Headquarters and Field Activities security and staff personnel who use the records to perform their duties. All records are maintained on closed military installations with security force personnel performing installation access control and random patrols.

Common Access Cards and personal identification numbers are used to authenticate authorized desktop and laptop computer users. Computer servers are scanned monthly to assess system vulnerabilities. Systems security updates are accomplished daily. The computer files are password protected with access restricted to authorized users with a need for the information. Records are secured in locked or guarded buildings, locked offices, or locked cabinets during non duty hours, with access restricted during duty hours to authorized users with a need for the information.

RETENTION AND DISPOSAL:

Records are destroyed 5 years after date of last action; incidents involving terrorist threats are destroyed 7 years after the incident is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Program Manager, Law Enforcement Operations, Headquarters, Defense Logistics Agency, Office of Public Safety, 8725 John J. Kingman Road, Suite 3533, Fort Belvoir, VA 22060–6220, and the Security Managers within the DLA Field Activity responsible for the operation of security forces and staff at the DLA Field Activity. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Individuals are required to provide name, Social Security Number (SSN), employing activity name and address, and, if known, place of investigation.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed without the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)".

If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)".

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about them contained in this system of records should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Individuals are required to provide name, Social Security Number, employing activity name and address, and, if known, place of investigation.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed without the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)".

If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)".

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is provided by the record subject, victims, witnesses, and investigators.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

An exemption rule for this exemption has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 323. For additional information contact the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

[FR Doc. 2010–7990 Filed 4–7–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2010–OS–0039]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Office of the Secretary of Defense proposes to alter a system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action would be effective without further notice on May 10, 2010 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from

members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Allard at (703) 588–6830.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on March 26, 2010, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996; 61 FR 6427).

Dated: April 5, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DWHS P18

SYSTEM NAME:

Office of the Secretary of Defense Identification Badge System (October 10, 2006; 71 FR 59495).

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "All permanent military personnel assigned to the Office of the Secretary of Defense."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Name, Social Security Number (SSN), rank, service, date assigned and the Office of the Secretary of Defense component to which assigned."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 1125, Recognition for Accomplishments: Awards & Trophies; Recognition for accomplishments: Award of trophies, DoD 1348.33–M, Manual of Military Decorations and Awards and E.O. 9397 (SSN), as amended."

PURPOSE(S):

Delete entry and replace with "To be used by officials of the Military Personnel Division, Human Resources Directorate, Washington Headquarters Services to temporarily issue the badge at arrival and determine who is authorized permanent award after a one-year period and then prepare the certificate to recognize this event."

* * * * *

STORAGE:

Delete entry and replace with "Paper and/or electronic storage media".

* * * * *

SAFEGUARDS:

Delete entry and replace with "Accesses authorized by system manager, granted by Information Technology Management Directorate to a secure computer application database and are Common Access Card enabled. Users receive annual Privacy Act and information assurance training, and only those individuals with an official "need to know" are provided access. Back-up data is stored in a locked room."

RETENTION AND DISPOSAL:

Delete entry and replace with "Records are retired to Washington National Records Center 3 years after cut off. Destroy when 15 years old".

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Chief, Office of Secretary of Defense Awards Branch, Human Resources Directorate, Washington Headquarters Services, Department of Defense, 1155 Defense Pentagon, Washington, DC 20301–1155."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Military Personnel, Human Resources Directorate, Washington Headquarters Services, Department of Defense, 1155 Defense Pentagon, Washington, DC 20301–1155.

Requests must include the name and number of this system of records notice, along with the individual's name, grade, service, Social Security Number (SSN) and be signed."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system should address written inquiries to the Office of Secretary of Defense/Joint Staff, Freedom of Information Requester Service Center, Office of Freedom of Information, 1155 Defense Pentagon, Washington, DC 20301–1155.

Requests must include the name and number of this system of records notice, along with the individual's name, grade, service, Social Security Number (SSN) and be signed."

* * * * *

DWHS P18

SYSTEM NAME:

Office of the Secretary of Defense Identification Badge System.

SYSTEM LOCATION:

Military Personnel, Washington Headquarters Services, Department of Defense, Room 5E556, 1155 Defense Pentagon, Washington, DC 20301–1155.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All permanent military personnel assigned to the Office of the Secretary of Defense.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number (SSN), rank, service, date assigned and the Office of the Secretary of Defense component to which assigned.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 1125, Recognition for Accomplishments: Awards & Trophies; Recognition for accomplishments: Award of trophies, DoD 1348.33–M, Manual of Military Decorations and Awards and E.O. 9397 (SSN), as amended.

PURPOSE(S):

To be used by officials of the Military Personnel Division, Human Resources Directorate, Washington Headquarters Services to temporarily issue the badge at arrival and determine who is authorized permanent award after a one-year period and then prepare the certificate to recognize this event.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of Office of the Secretary of Defense's compilation of

systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and/or electronic storage media.

RETRIEVABILITY:

Information is retrieved by last name of recipient, Social Security Number (SSN), grade, and/or service.

SAFEGUARDS:

Accesses are authorized by system manager, granted by Information Technology Management Directorate to a secure computer application database and are Common Access Card enabled. Users receive annual Privacy Act and information assurance training, and only those individuals with an official "need to know" are provided access. Back-up data is stored in a locked room.

RETENTION AND DISPOSAL:

Records are retired to Washington National Records Center 3 years after cutoff. Destroy when 15 years old.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Secretary of Defense Awards Branch, Human Resources Directorate, Washington Headquarters Services, Department of Defense, 1155 Defense Pentagon, Washington, DC 20301–1155.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Military Personnel, Human Resources Directorate, Washington Headquarters Services, Department of Defense, 1155 Defense Pentagon, Washington, DC 20301–1155.

Requests must include the name and number of this system of records notice, along with the individual's name, grade, service, Social Security Number (SSN) and be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Office of Secretary of Defense/Joint Staff, Freedom of Information Requester Service Center, Office of Freedom of Information, 1155 Defense Pentagon, Washington, DC 20301–1155.

Requests must include the name and number of this system of records notice, along with the individual's name, grade, service, Social Security Number (SSN) and be signed.

CONTESTING RECORD PROCEDURES:

The Office of Secretary of Defense rules for accessing records, for contesting contents and appealing initial agency determinations are published in Office of Secretary of Defense Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2010–7965 Filed 4–7–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2010–OS–0040]

Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice to delete a system of records.

SUMMARY: The Defense Logistics Agency proposes to delete a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on May 10, 2010 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.

* *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is of make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Jody Sinkler at (703) 767–5045.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the Chief Privacy and FOIA Officer, Headquarters Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

The Defense Logistics Agency proposes to delete one system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: April 5, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETION:

S700.20

SYSTEM NAME:

Passport, Visa, and Country Clearance Files (July 23, 2003; 68 FR 43504).

REASON:

System notice is no longer necessary. Records are covered under existing DoD-wide notices; F011 AF A3 B DoD, DoD Foreign Clearance Program Records (April 6, 2007; 72 FR 17136) and A0055 USEUCOM DoD, Europe Command Travel Clearance Records (February 13, 2006; 71 FR 7549).

[FR Doc. 2010–7991 Filed 4–7–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2010–0007]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to delete a system of records.

SUMMARY: The Department of the Navy proposes to delete a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on May 10, 2010 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by dock number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.

* *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Brown-Lam (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the contact under **FOR FURTHER INFORMATION CONTACT**.

The Department the Navy proposes to delete one system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: April 5, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N01000–3

DELETION:

SYSTEM NAME:

DoD Civilian/Military Service Review Board (February 29, 2008; 73 FR 11098).

REASON:

The records have been subsumed under system of record notice N01070–3, Navy Military Personnel Records System (January 29, 2007; 72 FR 3981).

[FR Doc. 2010–7961 Filed 4–7–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2010–0009]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to delete a system of records.

SUMMARY: The Department of the Air Force proposes to delete a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on May 10, 2010, unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by dock number and title, by any of the following methods:

• *Federal Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Charles J. Shedrick, 703–696–6488.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the Air Force Privacy Office, Air Force Privacy Act Office, Office of Warfighting Integration and Chief Information officer, ATTN: SAF/XCPPI, 1800 Air Force Pentagon, Washington DC 20330–1800.

The Department of the Air Force proposes to delete one system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: April 5, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F011 ANG A

DELETION:

SYSTEM NAME:

Progress Reports, Undergraduate Pilot Training (June 11, 1997; 62 FR 31793).

REASON:

Undergraduate training is no longer under the Air National Guard Personnel Directorate and they no longer receive records from the schoolhouses concerning the members' records. The Air National Guard Domestic Operations Directorate does not receive or track this information any longer; therefore, this system of records is no longer required. All records have been destroyed in accordance with National Archives Records Administration retention and disposal requirements.

[FR Doc. 2010–7963 Filed 4–7–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2010–0010]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to delete four systems of records.

SUMMARY: The Department of the Air Force proposes to delete four systems of records notices from its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on May 10, 2010 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.

* *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these

submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Shedrick at (703) 696–6488.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the Department of the Air Force, Freedom of Information/Privacy Division, U.S. Air Force Records Management and Declassification Agency, 1800 Air Force Pentagon, Washington, DC 20330–1800.

The Department of the Air Force proposes to delete four systems of records notices from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: April 5, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETIONS:

F036 AMC A

Training Instructors (Academic Instructor Improvement/Evaluation) (June 11, 1997; 62 FR 31793).

REASON:

The 1550th Technical Training Squadron, Kirtland Air Force Base, NM no longer exits. Training now falls under the Air Education Training Command (AETC); all records have been transferred or deleted in accordance with the existing National Archives and Records Administration retention schedule.

F036 AMC B

Training Progress (Permanent Student Record) (June 11, 1997; 62 FR 31793).

REASON:

AMC no longer provides Noncommissioned Officer (NCO) Academy training. The NCO Academy Training now falls under the Air Education Training Command (AETC); all records have been transferred or deleted in accordance with the existing National Archives and Records Administration retention schedule.

F036 AMC C

Training Systems Research and Development Materials (June 11, 1997; 62 FR 31793).

REASON:

The 1550th Combat Crew Training Wing, Kirtland Air Force Base, NM, no longer exists. Training now falls under the Air Education Training Command (AETC); all records have been transferred or deleted in accordance with the existing National Archives and Records Administration retention schedule.

F036 AMC D

Air Crew Instruction Records (June 11, 1997; 62 FR 31793).

REASON:

The 1550th Combat Crew Training Wing, Kirtland Air Force Base, NM, no longer exists. Training now falls under the Air Education Training Command (AETC); all records have been transferred or deleted in accordance with the existing National Archives and Records Administration retention schedule.

[FR Doc. 2010–7962 Filed 4–7–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: On April 2, 2010, the Department of Education published a 30-day comment period notice in the **Federal Register** (Page 16762, Column 1) seeking public comment for an information collection entitled, "Federal Family Education Loan (FFEL) Program, Federal Perkins Loan Program and William D. Ford Federal Direct Loan (Direct Loan) Program Military Service Deferment/Post-Active Duty Student Deferment Request." This notice is hereby withdrawn. Public comment will be requested at a future date. The Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: April 2, 2010.

James Hyler,

Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

[FR Doc. 2010–7937 Filed 4–7–10; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act; Notice of Virtual Public Forum for EAC Board of Advisors

DATE & TIME: Monday, April 26, 2010, 9 a.m. EDT through Friday, April 30, 2010, 9 p.m. EDT.

PLACE: EAC Board of Advisors Virtual Meeting Room at *http://www.eac.gov.* Once at the main page of EAC's Web site, viewers should click the link to the Board of Advisors Virtual Meeting Room. The virtual meeting room will open on Monday, April 26, 2010, at 9 a.m. EDT and will close on Friday, April 30, 2010, at 9 p.m. EDT. The site will be available 24 hours per day during that 5-day period.

PURPOSE: The EAC Board of Advisors will review and provide comment on a draft version of the *EAC Recounts and Contests* study. The draft version contains information about the laws and procedures each State uses to govern recounts, contests, and standards for what constitutes a valid vote. The study includes best practices that States use with respect to recounts and contests.

The EAC Board of Advisors Virtual Meeting Room was established to enable the Board of Advisors to conduct business in an efficient manner in a public forum, including being able to review and comment on draft documents, when it is not feasible for an in-person board meeting. The Board of Advisors will not take any votes or propose any resolutions during the 5-day forum of April 26–April 30, 2010. Members will post comments about the draft version of the *Recounts and Contests* study.

This activity is open to the public. The public may view the Proceedings of this special forum by visiting the EAC board of advisors virtual meeting room at *http://www.eac.gov* at any time between Monday, April 26, 2010, 9 a.m. EDT and friday, April 30, 2010, 9 p.m. EDT. The public also may view *Recounts and Contests,* which will be posted on EAC's Web site beginning April 26, 2010. The public may file written statements to the Eac board of advisors at *boardofadvisors@eac.gov*. Data on EAC's Web site is accessible to visitors with disabilities and meets the requirements of section 508 of the rehabilitation act.

PERSON TO CONTACT FOR INFORMATION: Bryan Whitener, Telephone: (202) 566–3100.

Signed:

Gracia Hillman,

Commissioner, U.S. Election Assistance Commission.

[FR Doc. 2010–8171 Filed 4–6–10; 4:15 pm]

BILLING CODE 6820–KF–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act; Notice of Virtual Public Forum for EAC Standards Board

DATE & TIME: Monday, May 3, 2010, 9 a.m. EDT through Friday, May 14, 2010, 9 p.m. EDT.

PLACE: EAC Standards Board Virtual Meeting Room at *http://www.eac.gov.*

Once at the main page of EAC's Web site, viewers should click the link to the Standards Board Virtual Meeting Room. The virtual meeting room will open on Monday, May 3, 2010, at 9 a.m. EDT and will close on Friday, May 14, 2010, at 9 p.m. EDT. The site will be available 24 hours per day during that 12-day period.

PURPOSE: The EAC Standards Board will review and provide comment on a draft version of the EAC Research Department's *Recounts and Contests* study. The draft version contains information about the laws and procedures each States uses to govern recounts, contests, and standards for what constitutes a valid vote. The study includes best practices that States use with respect to recounts and contests. The EAC Standards Board Virtual Meeting Room was established to enable the Standards Board to conduct business in an efficient manner in a public forum, including being able to review and discuss draft documents, when it is not feasible for an in-person board meeting. The Standards Board will not take any votes or propose any resolutions during the 12-day forum of May 3–May 14, 2010. Members will post comments about the draft version of the *Recounts and Contests* study.

This activity is open to the public. The public may view the proceedings of this special forum by visiting the EAC standards board virtual meeting room at *http://www.eac.gov* at any time between Monday, May 3, 2010, 9 a.m. EDT and Friday, May 14, 2010, 9 p.m. EDT. The public also may view *recounts and contests,* which will be posted on EAC's Web site beginning April 26, 2010. The public may file written statements to the EAC standards board at *standardsboard@eac.gov* and by copying Sharmili Edwards at *sedwards@eac.gov*. Data on EAC's Web site is accessible to visitors with disabilities and meets the requirements of Section 508 of the Rehabilitation Act.

PERSON TO CONTACT FOR INFORMATION: Bryan Whitener, Telephone: (202) 566–3100.

Gineen Bresso Beach,

Commissioner, U.S. Election Assistance Commission.

[FR Doc. 2010–8174 Filed 4–6–10; 4:15 pm]

BILLING CODE 6820–KF–P

DEPARTMENT OF ENERGY

Western Area Power Administration

DEPARTMENT OF AGRICULTURE

Forest Service

Maintenance and Vegetation Management Along Existing Western Area Power Administration Transmission Line Rights of Way on National Forest System Lands, Colorado, Utah, and Nebraska (DOE/EIS–0442)

AGENCIES: Western Area Power Administration, DOE; Forest Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement and to Conduct Scoping Meetings; Notice of Floodplain and Wetlands Involvement.

SUMMARY: Western Area Power Administration (Western) proposes to improve the way it manages vegetation along its rights-of-way (ROW) on National Forest System lands in the states of Colorado, Utah, and Nebraska. Implementing the proposal would include modifying existing United States Forest Service (Forest Service) authorizations or issuing new authorizations to accommodate Western's vegetation management proposal and maintenance of the electrical transmission facilities. Western and the FS will be joint lead agencies in the preparation of an environmental impact statement (EIS) on the proposal in accordance with the National Environmental Policy Act of 1969 (NEPA), U.S. Department of Energy (DOE) NEPA Implementing Procedures, and the Council on Environmental Quality (CEQ) regulations for implementing NEPA.

Western's need for agency action is to ensure that it can safely and reliably operate and maintain its existing electrical transmission facilities. Western must meet North American Electric Reliability Corporation's mandatory vegetation management and maintenance standards (FAC–003–1) in accordance with section 1211 of the Energy Policy Act of 2005 and industry standards. These industry standards are designed to ensure the safe and reliable operation of the transmission system.

Portions of the proposed Project may affect floodplains and wetlands, so this Notice of Intent (NOI) also serves as a notice of proposed floodplain or wetland action, in accordance with DOE floodplain and wetland environmental review requirements.

DATES: This NOI begins the public scoping period. The public scoping period will close May 26, 2010. Western and the Forest Service will consider all electronic and written scoping comments that are received or postmarked by midnight May 26, 2010.

ADDRESSES: Western and the Forest Service will host public scoping meetings on Thursday, April 22, 2010, at the Ramada Plaza Denver North, 10 East 120th Avenue, Denver, CO 80233; Friday, April 23, 2010, at the Museum of Western Colorado, Whitman Educational Center, 248 S. 4th (4th and Ute), Grand Junction, CO 81501; and Monday, April 26, 2010, at the Uintah Basin Applied Technology College, 450 N. 2000 W., Vernal, UT 84078. Scoping meetings will be from 3 p.m. to 7 p.m. The meetings will provide information to the public and gather comments from the public. The meetings will be informal, and attendees will be able to speak directly with Western and FS representatives about the proposal. Attendees may provide written comments at the public scoping meetings, or send them to James Hartman, Environmental Manager, Rocky Mountain Regional Office, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539–3003, *e-mail: Western-FS-EIS@wapa.gov.*

FOR FURTHER INFORMATION CONTACT: For information on the proposal and the environmental review process, contact James Hartman at the above address. For general information on DOE's NEPA review process, contact Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance, GC–54, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0119, telephone (202) 586–4600 or (800) 472–2756, facsimile (202) 586–7031. For information on the Forest Service role in this effort, please contact David Loomis, Regional Environmental Planner, Rocky Mountain Regional Office, U.S. Forest Service, 740 Simms St., Golden, CO 80401 (303) 275–5008.

SUPPLEMENTARY INFORMATION: Western is a Federal power marketing agency within the DOE that markets and delivers Federal wholesale electric power (principally hydroelectric power)

to municipalities, rural electric cooperatives, public utilities and irrigation districts, Federal and State agencies, and Native American tribes in 15 western and central States. The proposal covers existing transmission lines located on National Forest System lands in Colorado, Utah, and Nebraska and operated and maintained by Western's Rocky Mountain Region. Western proposes to improve the way it manages vegetation on FS lands in part to ensure compliance with section 1211 of the Energy Policy Act of 2005 and the subsequent changes in industry standards for vegetation management to control the costs of vegetation management, to reduce the risk of wildfires caused by vegetation interacting with energized transmission lines, and to reduce the potential impact of wildfires on the transmission lines. Forest Service authorizations, issued under 36 CFR 251.54, for Western's use of National Forest System lands would need to be modified to accommodate this proposal.

Purpose and Need for Agency Action

Western must ensure that it can safely and reliably operate and maintain its existing electrical transmission facilities to deliver electrical power. Western must ensure access to its transmission facilities for maintenance and emergency response. Western must also ensure that the costs associated with maintaining the transmission system can be controlled in accordance with sound business principles. Western must meet mandatory vegetation management standards in accordance with section 1211 of the Energy Policy Act of 2005 and industry standards. The vegetation management standards are designed to ensure the safe and reliable operation of the transmission system.

To ensure that Western can safely, reliably, and cost-effectively operate, maintain, and access its transmission system and implement required vegetation management practices on lands managed by the FS, Western needs to participate with the FS to evaluate options to renew or modify Western's current authorizations.

Western's objectives for this proposal are to maintain its transmission lines, ROW and access roads to:

- Protect public and worker safety
- Ensure power system reliability
- Comply with current industry standards and mandatory reliability standards
- Achieve technical and economic efficiencies to minimize impacts on transmission line tariff costs and electrical power rates
- Reduce the risk of wildfires caused by vegetation growing into or falling onto transmission lines
- Reduce the risks to facilities from fires
- Control the spread of noxious weeds
- Ensure that Western's transmission facilities remain operational for the useful life of the facility
- Maintain flexibility to accommodate changes in transmission system operation and maintenance requirements

Proposed Action

Western proposes to improve the way it manages vegetation along its ROW on National Forest System lands in the states of Colorado, Utah, and Nebraska. Not all areas of Western's ROW would require the proposed changes to vegetation management. Vegetation management approaches would vary along the ROW depending on site conditions and identified risks to the transmission lines, and other factors. Over the life of Western's facilities, proposed vegetation management changes would be implemented in locations along its ROW where vegetation could interfere with Western's ability to reliably operate and maintain the facilities. In general, Western proposes to change its vegetation management practices in the following manner:

- Implement and then maintain vegetation conditions along the ROW that reduce the risk to the transmission lines from vegetation-caused interference with the maintenance and operation of the transmission line. This could include establishing relatively stable native vegetation that, at mature height, would not grow into conductors, fall onto conductors or structures, or contribute to high fuel loads.
- Change from a largely reactive approach of cutting danger trees with annual ROW re-entry cycles to a proactive approach that incorporates integrated vegetation management. The objectives would be to control vegetation that, at mature height, presents a risk to transmission line maintenance and operation, and allow for longer ROW re-entry intervals.
- Reduce as necessary and manage the amount of fuel-loading on the ROW to reduce the risk of transmission line-caused wildfires and to reduce the potential impacts of wildfires to transmission lines and structures.

Alternatives

Alternatives to Western's proposal include the no action alternative. In this alternative, Western would continue its maintenance according to past and current practices. Danger trees would be managed as they are now using a reactive approach with annual re-entry cycle to locate and cut danger trees. Other alternatives may be identified based on public and agency comments.

Floodplain or Wetland Involvement

Since the proposed Project may involve action in floodplains or wetlands, this NOI also serves as a notice of proposed floodplain or wetland action, in accordance with 10 CFR 1022.12 (a). The EIS will include a floodplain/wetland assessment and floodplain statement of findings following DOE regulations for compliance with floodplain and wetlands environmental review (10 CFR 1022).

Environmental Issues

The location of the proposal is on National Forest System lands in Colorado, Utah, and Nebraska. National Forests in Colorado include the Arapaho-Roosevelt, Grand Mesa-Uncompahgre-Gunnison, White River, Routt, San Juan, and Pike-San Isabel. The project also includes the Nebraska National Forest in Nebraska and the Ashley National Forest in Utah. Western maintains approximately 300 miles of ROW in these forests. The ROWs cross through a variety of vegetation communities at elevations ranging from approximately 6,000 to 11,000 feet. The widths of the transmission line ROW depend on the voltage of the line and typically range from 75 to 175 feet. The EIS will evaluate impacts on a variety of environmental resources that may occur along the approximately 4,000 total acres of ROW. The EIS will include design criteria and other actions to avoid or minimize impacts. The EIS will also present the results of compliance with other environmental regulations including the Endangered Species Act, National Historic Preservation Act, Clean Water Act, Clean Air Act and others.

Public Participation

Interested parties are invited to participate in the scoping process to identify important issues to be analyzed in depth, and to eliminate from detailed study issues that are not pertinent. The scoping process will involve all interested agencies (Federal, State, county, and local), Native American tribes, public interest groups, businesses, affected landowners, and individual members of the public.

Western and the FS will consult with affected tribes to evaluate and address the potential effects on cultural

resources, traditional cultural properties, or other resources important to the tribes. These consultations will be conducted in accordance with Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments* (65 FR 67429), the President's memorandum of April 29, 1994, *Government-to-Government Relations with Native American Tribal Governments* (59 FR 22961), DOE-specific guidance on tribal interactions, and applicable natural and cultural resources laws and regulations.

The public is encouraged to provide information and comments on issues it believes should be addressed in the EIS. Comments on the scope of the EIS will be addressed by Western and the Forest Service. Comments will be accepted at any time during the EIS process. Comments received outside of the scoping period may be addressed in the draft EIS if practicable, otherwise they will be addressed later in the process, such as in the final EIS.

Western has set up a Web site at *http://www.wapa.gov/transmission/Western-FS-EIS.htm* to facilitate the distribution of project information including meeting notices, project documents, schedules and other information. The public will be able to obtain documents for review from this Web site or request digital or hardcopies of documents for review.

Western anticipates that the EIS process will take about 15 months, and will include public scoping meetings; consultation and coordination with appropriate Federal, State, county, and local agencies and tribes; distribution of and public review and comment on the Draft EIS; a formal public hearing on the Draft EIS; distribution of a Final EIS; and publication of the Record of Decision in the **Federal Register.**

Responsible Officials

Western: Administrator; Forest Service: Rocky Mountain Regional Forester.

Dated: March 24, 2010.

Timothy J. Meeks,

Administrator.

Dated: March 24, 2010.

Randall Karstaedt,

Acting Deputy Regional Forester.

[FR Doc. 2010–7724 Filed 4–7–10; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0079: FRL–9135–2]

Agency Information Collection Activities; Proposed Collection; Comment Request; 8–Hour Ozone National Ambient Air Quality Standard, EPA ICR No. 2236.03, OMB Control No. 2060–0594

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) 2236.03—8–Hour Ozone National Ambient Air Quality Standard to the Office of Management and Budget (OMB). This ICR is scheduled to expire on July 31, 2010. 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 June 7, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2003–0079, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-docket@epa.gov.*
- *Fax:* (202) 564–9744.
- *Mail:* Environmental Protection Agency, Air and Radiation Docket, Mailcode 2822T, 1200 Pennsylvania 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. Please include a total of two copies.
- *Hand Delivery:* EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20004. 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–2003–0079. 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 *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: Mr. H. Lynn Dail, Air Quality Policy Division, Office of Air Quality Planning and Standards, Mail Code C539–01, Environmental Protection Agency, T.W. Alexander Drive, Research Triangle Park, NC 27711; telephone number: (919) 541–2363; fax number: (919) 541–0824; e-mail address: *dail.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–2003–0079, 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 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the 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. 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 **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 states and regional offices. They are potentially affected by the attainment demonstration, Reasonable Further Progress (RFP) State Implementation Plan (SIP) submission, and Reasonable Available Control Technology (RACT) SIP submission for the non-attainment areas. Local, state, and federal agencies are part of the North American Industrial Classification System Code number 924110. There are other entities that may be indirectly affected, as they may comment on the draft submissions before they are forwarded to EPA's regional offices. These include potentially regulated entities, representatives of special interest groups, and individuals.

Title: 8-Hour Ozone National Ambient Air Quality Standard Implementation Rule.

ICR numbers: EPA ICR No. 2236.03, OMB Control No. 2060–0594.

ICR status: This ICR is currently scheduled to expire on July 31, 2010. 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 Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9. They 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: The PRA requires the information found in this ICR number 2236.02 to assess the burden (in hours and dollars) of the 8-hour Ozone National Ambient Air Quality Standard Implementation (NAAQS) Rule as well as the periodic reporting and record keeping necessary to maintain the rule. The rule was proposed on June 2, 2003, (68 FR 32802) and promulgated in two Phases: Phase 1 published on April 30, 2004, (69 FR 23951) and Phase 2 published on November 29, 2005 (70 FR 71612). The preamble to the proposed and final regulations addressed the administrative burden in general terms. The preamble to the final Phase 2 rule stated that an ICR would be prepared (70 FR 71692). The rule includes requirements that involve collecting information from states with areas that have been designated nonattainment for the 8-hour ozone NAAQS. The time period covered in this ICR is a 3 year period from August 1, 2010, through July 31, 2013. These information collection milestones include state submission of an attainment demonstration SIP, a RFP SIP submission, and a RACT SIP. However, not all of the milestones and associated burden and administrative costs estimates apply to every designated nonattainment area. Areas with cleaner air quality have fewer requirements.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 317 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:

Respondents/Affected Entities: State and local governments.

Estimated total number of respondents: 39.

Frequency of response: Annual.

Estimated total annual burden hours: 6,667 hours.

Estimated total annual costs: $434,000. This includes an estimated burden 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 278,666 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This decrease reflects EPA's information that the number of non-attainment areas has decreased as areas have come into compliance with the standards and that the burden associated with the remaining non-attainment areas is less because of the work they have done previously to comply with the standards.

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: April 1, 2010.

Stephen D. Page,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 2010–7970 Filed 4–7–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9135–1]

Clean Water Act Section 303(d): Final Agency Action on Seven Total Maximum Daily Loads (TMDLs) in Louisiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces final agency action on seven TMDLs prepared by EPA Region 6 for waters listed in Louisiana's Atchafalaya River Basin, under Section 303(d) of the Clean Water Act (CWA). Documents from the administrative record file for the seven TMDLs, including TMDL calculations and responses to comments, may be viewed at *http://www.epa.gov/region6/water/npdes/tmdl/index.htm*. The administrative record file may be examined by calling or writing Ms. Diane Smith at the address below. Please contact Ms. Smith to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Diane Smith, Environmental Protection Specialist, Water Quality Protection Division, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–2145.

SUPPLEMENTARY INFORMATION: In 1996, two Louisiana environmental groups, the Sierra Club and Louisiana Environmental Action Network (plaintiffs), filed a lawsuit in Federal Court against the EPA, styled *Sierra Club, et al.* v. *Clifford et al.,* No. 96–0527, (E.D. La.). Among other claims, plaintiffs alleged that EPA failed to establish Louisiana TMDLs in a timely manner. EPA established seven of these TMDLs pursuant to a consent decree entered in this lawsuit.

EPA Takes Final Agency Action on Seven TMDLs

By this notice EPA is taking final agency action on the following seven TMDLs for waters located within the Louisiana Atchafalaya River Basin:

Subsegment	Waterbody name	Pollutant
010301	West Atchafalaya Basin Floodway	Mercury and Dissolved Oxygen.
010401	East Atchafalaya Basin and Morganza Floodway South to Interstate 10 Canal.	Mercury.
010501	Lower Atchafalaya Basin Floodway	Mercury.
010601	Crow Bayou, Bayou Blue, and Tributaries	Chloride, Sulfate, and TDS.

EPA requested the public to provide EPA with any significant data or information that might impact the seven TMDLs in the **Federal Register** Notice: volume 74, number 160, pages 42068 and 42069 (August 20, 2009). The comments which were received, EPA's response to comments, as well as the TMDLs may be found at *http://www.epa.gov/region6/water/npdes/tmdl/index.htm*.

Dated: March 31, 2010.

Miguel I. Flores,

Director, Water Quality Protection Division, EPA Region 6.

[FR Doc. 2010–8013 Filed 4–7–10; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 2010-7182) published on page 16123 of the issue for Wednesday, March 31, 2010.

Under the Federal Reserve Bank of New York heading, the entry for Morgan Stanley, New York, New York, is revised to read as follows:

A. Federal Reserve Bank of New York (Ivan Hurwitz, Bank Applications Officer) 33 Liberty Street, New York, New York 10045–0001:

1. Morgan Stanley, New York, New York; to acquire 100 percent of the voting shares of Morgan Stanley Private Bank, N.A., Jersey City, New Jersey, as a result of converting Morgan Stanley Trust into a national bank and thereby merging it with Morgan Stanley Bank, N.A., and renaming the surviving institution Morgan Stanley Private Bank, N.A., which will be relocated to Purchase, New York.

Comments on this application must be received by April 26, 2010.

Board of Governors of the Federal Reserve System, April 5, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–7980 Filed 4–7–10 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 (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 011960–006.

Title: The New World Alliance Agreement.

Parties: American President Lines, Ltd.; APL Co. Pte, Ltd.; Hyundai Merchant Marine Co., Ltd.; and Mitsui O.S.K. Lines, Ltd. ("MOL").

Filing Party: Robert B. Yoshitomi, Esq.; Nixon Peabody LLP; 555 West Fifth Street, 46th Floor; Los Angeles, CA 90013.

Synopsis: The amendment updates the address of American President

Lines, Ltd. and allows MOL to charter space to the Evergreen Line Joint Service Agreement in the trade between South Korea and the U.S. West Coast.

By Order of the Federal Maritime Commission.

Dated: April 2, 2010.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2010–7897 Filed 4–7–10; 8:45 am]

BILLING CODE 6730–01–P

GOVERNMENT ACCOUNTABILITY OFFICE

Advisory Board to the Consumer Operated and Oriented Plan (CO–OP) Program

AGENCY: Government Accountability Office (GAO).

ACTION: Notice on letters of nomination.

SUMMARY: The Patient Protection and Affordable Care Act requires the Secretary of Health and Human Services to establish the Consumer Operated and Oriented Plan (CO–OP) Program, and provides for an Advisory Board to the program. The Patient Protection and Affordable Care Act gave the Comptroller General of the United States responsibility for appointing the Advisory Board's 15 members from among individuals with qualifications described in section 1805(c)(2) of the Social Security Act. Appointments are to be made not later than three months after the date of enactment of the Act. For these appointments, I am announcing the following: Letters of nomination and résumés will be accepted through April 30th to ensure adequate opportunity for review and consideration of nominees prior to appointment of members and can be sent to either the e-mail address or mailing address listed below.

ADDRESSES: Nominations can be submitted by either of the following:

- *E-mail: COOPBoardAppointments@gao.gov.*
- *Mail:* GAO Health Care, Attention: COOP Advisory Board Nominations, 441 G Street, NW., Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: *GAO:* Office of Public Affairs, (202) 512–4800.

[Sec. 1322, Pub. L. 111–148]

Gene L. Dodaro,

Acting Comptroller General of the United States.

[FR Doc. 2010–7654 Filed 4–7–10; 8:45 am]

BILLING CODE M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0167; Docket 2010–0083; Sequence 19]

Submission for OMB Review; American Recovery and Reinvestment Act—One-Time Reporting Requirements for First-Tier Subcontractors

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0167).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Federal Acquisition Regulation, Regulatory Secretariat, will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning the American Recovery and Reinvestment Act—One-time Reporting Requirements for First-tier Subcontractors. A request for public comments was published in the **Federal Register** at 74 FR 14639, on March 31, 2009.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before May 10, 2010.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the Regulatory Secretariat (MVCB), General Services Administration, 1800 F Street, NW., Room 4041, Washington, DC 20405. Please cite OMB Control No. 9000–0167, American Recovery and Reinvestment Act—one-time Reporting Requirements for First-tier Subcontractors, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest Woodson, Procurement Analyst, Contract Policy Branch, at telephone (202) 501–3775 or via e-mail to *ernest.woodson@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

One-time reporting elements for which the burden is imposed only on the first-tier subcontractor include the following:

a. Unique identifier (DUNS Number) for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company ((i)(4)(i));

b. Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable ((i)(4)(vii)); and

c. Subcontract primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable ((i)(4)(viii)).

The Government expects that most first-tier subcontractors will have a DUNS number. However, if a company has never received nor anticipated a Government contract, it would be required to register for a DUNS number which is not an onerous process and can be done online or by phone using information a company would have on hand for business purposes.

B. Annual Reporting Burden

Respondents: 73,360.

Responses per Respondent: 1.25.

Total Annual Reponses: 91,700.

Hours per Response: .25.

Total Burden Hours: 22,925.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street, NW., Room 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0167, American Recovery and Reinvestment Act—One-time Reporting Requirements for First-tier Subcontractors, in all correspondence.

Dated: April 1, 2010.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 2010–8034 Filed 4–7–10; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0166; Docket 2010–0083; Sequence 18]

Submission for OMB Review; American Recovery and Reinvestment Act—One-time Reporting Requirements for Prime Contractors

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0166).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation, Regulatory Secretariat, will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning the American Recovery and Reinvestment Act—One-time Reporting Requirements for Prime Contractors. A request for public comments was published in the **Federal Register** at 74 FR 14639, on March 31, 2009.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before May 10, 2010.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the Regulatory Secretariat (MVCB), General Services Administration, 1800 F Street, NW., Room 4041, Washington, DC 20405. Please cite OMB Control No. 9000–0166, American Recovery and Reinvestment Act—One-time Reporting Requirements for Prime Contractors, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest Woodson, Procurement Analyst, Contract Policy Branch, at telephone (202) 501–3775 or via e-mail to *ernest.woodson@gsa.gov*.

SUPPLEMENTARY INFORMATION:

A. Purpose

One-time reporting elements for which the burden is imposed on the prime contractor include the following:

a. Registration at *http://www.FederalReporting.gov* (52.204–11(c));

b. The award number for both its Government contract and first-tier subcontracts ((i)(1) and (i)(4));

c. Program or project title, if any, for its Government contract (*http://www.whitehouse.gov/omb/recovery_faqs_contractors*);

d. A description of the overall purpose and expected outcomes or results of the contract and first-tier subcontracts, including significant deliverables and, if appropriate, units of measure (*http://www.whitehouse.gov/omb/recovery_faqs_contractors*) and (i)(4)(v));

e. Name of the first-tier subcontractor ((i)(4)(ii));

f. Amount of the first-tier subcontract award ((i)(4)(iii));

g. Date of the first-tier subcontract award ((i)(4)(iv));

h. First-tier subcontract number (The contract number assigned by the prime contractor) (i)(4)(vi);

i. First-tier subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable (i)(4)(vii); and

j. Subcontract primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable (i)(4)(viii).

B. Annual Reporting Burden

Respondents: 36,680.
Responses per Respondent: 1.25.
Total Annual Reponses: 45,850.
Hours per Response: .6.
Total Burden Hours: 27,510.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street, NW., Room 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0166, American Recovery and Reinvestment Act—One-time Reporting Requirements for Prime Contractors, in all correspondence.

Dated: April 1, 2010.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 2010–8037 Filed 4–7–10; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0169; Docket 2010–0083; Sequence 21]

Submission for OMB Review; American Recovery and Reinvestment Act—Quarterly Reporting for Prime Contractors

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0169).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Federal Acquisition Regulation, Regulatory Secretariat, will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning the American Recovery and Reinvestment Act—Quarterly Reporting for Prime Contractors. A request for public comments was published in the **Federal Register** at 74 FR 14639, on March 31, 2009.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before May 10, 2010.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect

of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the Regulatory Secretariat (MVCB), General Services Administration, 1800 F Street, NW., Room 4041, Washington, DC 20405. Please cite OMB Control No. 9000–0169, American Recovery and Reinvestment Act—Quarterly Reporting for Prime Contractors, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest Woodson, Procurement Analyst, Contract Policy Branch, at telephone (202) 501–3775 or via e-mail to *ernest.woodson@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Elements updated quarterly for which the burden is imposed on the prime contractor include the following (information on the data elements can be found at *FederalReporting.gov* at the Recipient Reporting Data Model site):

a. The amount of Recovery Act funds invoiced by the contractor for the reporting period. A cumulative amount from all the reports submitted for this action will be maintained by the government's on-line reporting tool;

b. A list of all significant services performed or supplies delivered, including construction, for which the contractor has invoiced; and

c. An assessment of the contractor's progress towards the completion of the overall purpose and expected outcomes or results of the contract (*i.e.,* not started, less than 50 percent completed, completed 50 percent or more, or fully completed). This covers the contract (or portion thereof) funded by the Recovery Act.

B. Annual Reporting Burden

Respondents: 36,680.

Responses per Respondent: 5.

Total Annual Reponses: 183,400.

Hours per Response: 1.5.

Total Burden Hours: 275,100.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street, NW., Room 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0169, American Recovery and Reinvestment Act—One-time Reporting, Compensation Requirements, in all correspondence.

Dated: April 1, 2010.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 2010–8030 Filed 4–7–10; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Decision To Evaluate a Petition to Designate a Class of Employees for the Ames Laboratory, Ames, IA, To Be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class of employees for the Ames Laboratory, Ames, Iowa, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Ames Laboratory.

Location: Ames, Iowa.

Job Titles and/or Job Duties: Scientists, production workers, technicians, salaried graduate students, physical plant workers, administrative and support staff who worked in the Atomic Energy Commission and Department of Energy facilities on the Ames Laboratory Campus variably known as Annexes 1 and 2, Hot Canyon, Wilhelm Hall or Metallurgy Building, Spedding Hall, Research and Chemistry Buildings.

Period of Employment: January 1, 1955 through December 31, 1960.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Interim Director, Division of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 877–222–7570. Information requests can also be submitted by e-mail to *OCAS@CDC.GOV*.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2010–7913 Filed 4–7–10; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (Section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, e-mail *paperwork@hrsa.gov* or call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) The proposed collection of information for the proper performance of the functions of the agency; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: National Health Service Corps Alumni Initiative—New

The Health Resources and Services Administration's (HRSA) Bureau of Clinician Recruitment and Service (Bureau) administers the National Health Service Corps (NHSC) and its Scholarship and Loan Repayment Programs authorized under sections 331–338H of the Public Health Service Act (42 U.S.C. 254d–254q). Under these NHSC programs, health professionals agree to provide primary health services in health professional shortage areas. Health professionals who have completed NHSC service are considered to be NHSC Alumni.

The Bureau is proposing to develop a database of NHSC Alumni to establish an active network of Alumni to serve as a resource for the recruitment, counseling, and/or mentoring of future and current primary health care providers to practice in underserved communities. The database would

maintain contact information for NHSC Alumni, allow NHSC Alumni to better communicate with each other, and enable the Bureau to communicate with NHSC Alumni (*e.g.,* send updates, plan meetings, and provide monthly newsletters).

Basic contact information would be collected from the NHSC Alumni, such as, name, state (of residence and/or employment), contact telephone number, contact e-mail address, discipline, specialty, uniformed services rank and status (active duty or retired), and NHSC service category (Scholar, Loan Repayor, or Volunteer). The data would be easily collected and accessed through a secure Web portal and allow for the safe collection and storage of this information.

The estimated annual burden is as follows:

Instrument	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Alumni Database	5,000	1	5,000	.20	1,000

E-mail comments to *paperwork@hrsa.gov* or mail the HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: March 31, 2010.

Sahira Rafiullah,

Director, Division of Policy and Information Coordination.

[FR Doc. 2010–7927 Filed 4–7–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day–10–0745]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Colorectal Cancer Screening Program (OMB No. 0920–0745 7/31/2010)—Revision—Division of Cancer Prevention and Control (DCPC), National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Colorectal Cancer (CRC) is the second leading cause of cancer-related deaths in the United States, following lung cancer. Based on scientific evidence which indicates that regular screening is effective in reducing CRC incidence and mortality, regular CRC screening is now recommended for average-risk persons.

In 2005, CDC established a demonstration program to screen low-income individuals 50 years of age and older who have no health insurance or inadequate health insurance for CRC. The five demonstration sites have reported information to CDC including de-identified, patient-level demographic, screening, diagnostic, treatment, outcome and cost reimbursement data (Colorectal Cancer Screening Demonstration Program, OMB No. 0920–0745, exp. 7/31/2010).

CDC requests OMB approval to continue the information collection for three years, with changes. First, the number of funded sites will increase from 5 to 26, and the term "Demonstration" will be deleted from the title. Second, there will be a reduction in the burden per respondent associated with the collection of clinical information. Reporting forms for medical complications and medically ineligible clients will be discontinued, the level of detail collected from endoscopy and pathology reports will be reduced, and the reporting form for colorectal cancer clinical data elements (CCDE) will be streamlined. As a result, the reporting burden per CCDE form will be similar regardless of primary test provided. Third, the collection of patient-level reimbursement cost data will be discontinued and will be replaced by the collection of program-level activity-based cost data using a Cost Assessment Tool (CAT). The information to be collected through the CAT will allow CDC to compare activity-based costs across multiple sites and programs, and will provide a more effective means of monitoring and improving the performance and cost-effectiveness of the CRC screening program.

Each program site will screen an estimated 375 patients per year. De-identified CCDE information concerning approximately 187 new screening records will be transmitted to CDC electronically twice per year. Information collected through the Cost Assessment Tool will be transmitted electronically to CDC once per year. Reporting is required for all sites funded through the CRC screening program.

The goals of the expanded CRC screening program are to increase population-based screening and to reduce health disparities in CRC screening, incidence and mortality. The program will continue to provide services to low-income individuals age 50 and older with inadequate or no health insurance for CRC.

The total estimated annualized burden hours are 3,010. The increase in the number of funded sites and the proposed changes will result in an overall increase in burden to respondents. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form type	No. of respondents	No. of responses per respondent	Average burden per response (in hours)
Colorectal Cancer Screening Programs	Clinical Data Elements	26	375	15/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form type	No. of respondents	No. of responses per respondent	Average burden per response (in hours)
	Cost Assessment Tool	26	1	22

Dated: March 31, 2010.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2010–7916 Filed 4–7–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–0920–0457]

Proposed Data Collections Submitted for Public Comment and Recommendations

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 Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Maryam I. Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

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. Written comments should be received within 60 days of this notice.

Proposed Project

Aggregate Reports for Tuberculosis Program Evaluation (OMB No. 0920–0457 exp. 5/31/2010)—Reinstatement—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC requests the reinstatement of the Aggregate Reports for Tuberculosis Program Evaluation, previously approved under OMB No. 0920–0457 after the 5/31/2010 expiration date, for 3 years. There are no revisions to the report forms, data definitions, or reporting instructions.

To ensure the elimination of tuberculosis in the United States, CDC monitors indicators for key program activities, such as finding tuberculosis infections in recent contacts of cases and in other persons likely to be infected and providing therapy for latent tuberculosis infection. In 2000, CDC implemented two program evaluation reports for annual submission: Aggregate report of follow-up for contacts of tuberculosis, and aggregate report of screening and preventive therapy for tuberculosis infection (OMB No. 0920–0457). The respondents for these reports are the 68 state and local tuberculosis control programs receiving federal cooperative agreement funding through DTBE. These reports emphasize treatment outcomes, high-priority target populations vulnerable to tuberculosis, and programmed electronic report entry, which will be transitioned to the National Tuberculosis Indicators Project (NTIP), a secure Web-based system for program evaluation data, in 2010. No other federal agency collects this type of national tuberculosis data, and the aggregate report of follow-up for contacts of tuberculosis, and aggregate report of screening and preventive therapy for tuberculosis infection are the only data source about latent tuberculosis infection for monitoring national progress toward tuberculosis elimination with these activities. CDC provides ongoing assistance in the preparation and utilization of these reports at the local and state levels of public health jurisdiction. CDC also provides respondents with technical support for the NTIP software (Electronic—100%, Use of Electronic Signatures—No). There is no cost to respondents.

ESTIMATED ANNUALIZED BURDEN HOURS

Report name	Respondents (state and local tuberculosis control programs)	Response format	No. response per respondent	Hours per response	Total burden (in hours)
Follow-up and Treatment of Contacts to Tuberculosis Cases.	68 data clerks	50 Electronic	1	30/60	34
		18 Manual	1	3	204
	68 program managers	50 Electronic	1	30/60	34
		18 Manual	1	30/60	34
Targeted Testing and Treatment for Latent Tuberculosis Infection.	68 data clerks	50 Electronic	1	30/60	34
		18 Manual	1	3	204
	68 program managers	50 Electronic	1	30/60	34
		18 Manual	1	30/60	34

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Report name	Respondents (state and local tuberculosis control programs)	Response format	No. response per respondent	Hours per response	Total burden (in hours)
					612

Dated: March 31, 2010.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2010–7935 Filed 4–7–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, e-mail *paperwork@hrsa.gov* or call the HRSA Reports Clearance Officer at (301) 443–1129.

Comments are invited on: (a) The proposed collection of information for the proper performance of the functions of the agency; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: The National Health Service Corps Loan Repayment Program (OMB No. 0915–0127)—Extension

The National Health Service Corps (NHSC) Loan Repayment Program (LRP) was established to assure an adequate supply of trained primary care health care professionals to provide services in the neediest Health Professional Shortage Areas (HPSAs) of the United States. Under this program, the Department of Health and Human Services agrees to repay the educational loans of the primary care health professionals. In return, the health professionals agree to serve for a specified period of time in a federally designated HPSA approved by the Secretary for LRP participants. The NHSC LRP forms provide information that is needed for select, award, and monitor participants. The LRP forms include the following: the NHSC LRP Application, the Employment Verification and Community Site Information form, the Loan Information and Verification form, the Authorization to Release Information form, the Applicant Checklist, and the Self-Certification form.

The annual estimate of burden is as follows:

Instrument	Number of respondents	Responses/respondent	Total responses	Hours per response	Total burden hours
NHSC LRP Application	5,175	1	5,175	0.30	1,553
Employment Verification—Community Site Information Form	5,175	1	5,175	0.75	3,881
Loan Information and Verification Form	5,175	3	15,525	0.30	4,658
Authorization To Release Information	5,175	1	5,175	0.10	518
Applicant Checklist	5,175	1	5,175	0.25	1,294
Self-Certification Form	5,175	1	5,175	0.10	518
Lenders	65	1	65	0.30	20
Total	5,240		41,465		12,442

E-mail comments to *paperwork@hrsa.gov* or mail the HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: March 31, 2010.

Sahira Rafiullah,

Director, Division of Policy and Information Coordination.

[FR Doc. 2010–7934 Filed 4–7–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0215]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Recordkeeping Requirements for Microbiological Testing and Corrective Measures for Bottled Water

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Recordkeeping Requirements for Microbiological Testing and Corrective Measures for Bottled Water" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50 Rockville, MD 20850, 301–796–3794. *Jonnalynn.capezzuto@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 28, 2009 (74 FR 55557), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0658. The approval expires on March 31, 2013. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain*.

Dated: April 2, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–7948 Filed 4–7–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0174]

Agency Information Collection Activities; Proposed Collection; Comment Request; Applications for Food and Drug Administration Approval to Market a New Drug: Patent Submission and Listing Requirements and Application of 30-Month Stays on Approval of Abbreviated New Drug Applications Certifying That a Patent Claiming a Drug is Valid or Will Not Be Infringed

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the reporting requirements for submission and listing of patent information associated with a new drug application (NDA), an amendment, or a supplement.

DATES: Submit written or electronic comments on the collection of information by June 7, 2010.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Berbakos, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3792, e-mail: *Elizabeth.Berbakos@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Applications for FDA Approval to Market a New Drug: Patent Submission and Listing Requirements and Application of 30-month Stays on Approval of Abbreviated New Drug Applications Certifying That a Patent Claiming a Drug Is Invalid or Will Not Be Infringed (OMB Control Number 0910–0513)—Extension.

Section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(b)(1)) requires all NDA applicants to file, as part of the NDA, "the patent number and the expiration date of any patent which claims the drug for which the applicant submitted the application or which claims a method of using such drug and with respect to which a claim of patent infringement could reasonably be asserted if a person not licensed by the owner engaged in the manufacture[,] use, or sale of the drug." Section 505(c)(2) of the act (21 U.S.C. 355(c)(2)) imposes a similar patent submission obligation on holders of approved NDAs when the NDA holder could not have submitted the patent information with its application. Under section 505(b)(1) of the act, we publish patent information after approval of an NDA application in the list entitled "Approved Drug Products with Therapeutic Equivalence Evaluations" (the Orange Book). If patent information is submitted after NDA approval, section 505(c)(2) of the act directs us to publish the information upon its submission.

FDA regulations at §§ 314.50(h) (21 CFR 314.50(h)) and 314.53 (21 CFR 314.53) clarify the types of patent information that must and must not be submitted to FDA as part of an NDA, an amendment, or a supplement, and require persons submitting an NDA, an amendment, or a supplement, or submitting information on a patent after NDA approval, to make a detailed patent declaration using Form FDA 3542a and Form FDA 3542.

The reporting burden for submitting an NDA, an amendment, or supplement in accordance with § 314.50 (a) through (f), and (k) has been estimated by FDA and the collection of information has been approved by OMB under OMB control number 0910–0001. We are not re-estimating these approved burdens in this document. Only the reporting burdens associated with patent submission and listing, as explained in the following paragraphs, are estimated in this document.

The information collection reporting requirements are as follows:

Section 314.50(h) requires that an NDA, an amendment, or a supplement

contain patent information described under § 314.53.

Section 314.53 requires that an applicant submitting an NDA, an amendment, or a supplement, except as provided in § 314.53(d)(2), submit on Forms 3542 and 3542a, the required patent information described in this section.

Compliance with the information collection burdens under §§ 314.50(h) and 314.53 consists of submitting with an NDA, an amendment, or a supplement (collectively referred to as "application") the required patent declaration(s) on Form 3542a for each "patent that claims the drug or a method of using the drug that is the subject of the new drug application or amendment or supplement to it and with respect to which a claim of patent infringement could reasonably be asserted if a person not licensed by the owner of the patent engaged in the manufacture, use, or sale of the drug product" (§ 314.53(b)). Such patents claim the drug substance (active ingredient), drug product (formulation and composition), or method of use. If a patent is issued after the application is filed with FDA but before the application is approved, the applicant must submit the required patent information on Form 3542a as an amendment to the application, within 30 days of the date of issuance of the patent.

Within 30 days after the date of approval of an application, the applicant must submit Form 3542 for each patent that claims the drug substance (active ingredient), drug product (formulation and composition), or approved method of use for listing in the Orange Book. In addition, for patents issued after the date of approval of an application, Form 3542 must be submitted within 30 days of the date of issuance of the patent.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section § 314.50 (citing § 314.53)	No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Hours per Response	Total Hours
Form FDA 3542a	233	2.6	606	20	12,120
Form FDA 3542	154	2.6	400	5	2,000
Total Reporting Burden Hours:					14,120

[1] There are no operating and maintenance costs or capital costs associated with this collection of information.

The numbers of patents submitted to FDA for listing in the Orange Book in 2007, 2008, and 2009 were 268, 347, and 335, respectively, for an annual average of 317 (268 patents + 347 patents + 335 patents) / 3 years = 317 patents / year). Because many of these individual patents are included in multiple NDA submissions, there could be multiple declarations for a single patent. From our previous review of submissions, we believe that approximately 14 percent of the patents submitted are included in multiple NDA submissions, and thus require multiple patent declarations. Therefore, we estimate that 44 (317 patents x 14 percent) patents will be multiple listings, and there will be a total of 361 patents (317 patents + 44 patents = 361 patents) declared on Form FDA 3542. We approved 67, 73, and 77 NDAs in 2007, 2008, and 2009, respectively, of which approximately 71% submitted patent information for listing in the Orange Book. The remaining NDAs submitted Form 3542 as required and declared that there were no relevant patents. We also approved approximately 88, 96, and 62 NDA supplements in 2007, 2008, and 2009, respectively, for which submission of a patent declaration would be required. We estimate there will be 154 instances (based on an average of 72 NDA approvals and 82 supplement approvals per year) where an NDA holder would be affected by the patent declaration requirements, and that each of these NDA holders would, on average, submit 2.6 declarations ((361 patent declarations + 45 no relevant patent declarations) / 154 instances = 2.6 declarations per instance) on Form FDA 3542. We filed 120, 113, and 118 NDAs in 2007, 2008, and 2009, respectively, and 145, 99, and 104 NDA supplements in 2007, 2008, and 2009, respectively, for which submission of a patent declaration would be required. We estimate there will be 233 instances (based on an average of 117 NDAs filed and 116 NDA supplements filed per year) where an NDA holder would be affected by the patent declaration requirements. We estimate, based on a proportional increase from the number of declarations for approved NDAs, that there will be an annual total of 606 declarations (233 instances x 2.6 declarations per instance = 606 declarations) on Form FDA 3542a submitted with these applications. Based upon information provided by regulated entities and other information, we previously estimated that the information collection burden associated with Sec. 314.50(h) (citing Sec. 314.53) and FDA Forms 3542a and 3542 will be approximately 20 hours and 5 hours per response, respectively.

On December 3, 2008, FDA announced in the **Federal Register** (73 FR 73659) the availability of a draft guidance for industry entitled "Submission of Patent Information for Certain Old Antibiotics." That draft guidance, if finalized, would provide information regarding FDA's current thinking on the implementation of section 4(b)(1) of the Q1 Program Supplemental Funding Act (Public Law 110–379). Section 4(b)(1) of the Q1 Act requires submission to FDA of patent information by sponsors of certain NDAs containing old antibiotics. Estimates on the number of Forms FDA 3542a and 3542 that might be submitted in accordance with a finalized guidance have been included in table 1 of this document.

Dated: April 2, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–7891 Filed 4–7–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Interstate Administrative Subpoena.

OMB No.: 0970–0152.

Description: Section 452(a)(11) of the Social Security Act requires the Secretary of the Department of Health

and Human Services to promulgate a form for administrative subpoenas to be used in State child support enforcement programs to collect information for use in the establishment, modification and enforcement of child support orders in interstate cases. Section 454(9)(E) of the Social Security Act requires each State to cooperate with any other State in using the federal form for issuance of administrative subpoenas in interstate child support cases. Tribal IV–D agencies are not required to use this form but may choose to do so. OMB approval of this form is expiring in February 2011 and the Administration for Children and Families is requesting an extension of this form.

Respondents: State, local or Tribal agencies administering a child support enforcement program under title IV–D of the Social Security Act.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Administrative Subpoena	35,286	1	0.50	17,643
Estimated Total Annual Burden Hours				17,643

In compliance with the requirements of section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: April 5, 2010.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2010–7984 Filed 4–7–10; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Notice of Interstate Lien.

OMB No.: 0970–0153.

Description: Section 452(a)(11) of the Social Security Act requires the Secretary of Health and Human Services to promulgate a form for imposition of liens to be used by the State child support enforcement (Title IV–D) agencies in interstate cases. Section 454(9)(E) of the Social Security Act requires each State to cooperate with any other State in using the Federal form for imposition of liens in interstate child support cases. Tribal IV–D agencies are not required to use this form but may choose to do so. OMB approval of this form is expiring in February 2011 and the Administration for Children and Families is requesting an extension of this form.

Respondents: State, local or Tribal agencies administering a child support enforcement program under title IV–D of the Social Security Act.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Notice of Lien	1,832,384	1	0.25	458,096

Estimated Total Annual Burden Hours: 458,096.

In compliance with the requirements of section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d)

ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: April 5, 2010.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2010–7985 Filed 4–7–10; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: ORR Requirements for Refugee Cash Assistance; and Refugee Medical Assistance (45 CFR part 400).

OMB No.: 0970–0036.

Description: As required by section 412(e) of the Immigration and Nationality Act, the Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR), is requesting the information from Form ORR–6 to determine the effectiveness of the State cash and medical assistance, social services, and targeted assistance programs. State-by-State Refugee Cash Assistance (RCA) and Refugee Medical Assistance (RMA) utilization rates derived from Form ORR–6 are calculated for use in formulating program initiatives, priorities, standards, budget requests, and assistance policies. ORR regulations require that State Refugee Resettlement and Wilson-Fish agencies, and local and Tribal governments complete Form ORR–6 in order to participate in the above-mentioned programs.

Respondents: State Refugee Resettlement and Wilson-Fish Agencies, local, and Tribal governments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ORR–6	50	3	3.88	582

Estimated Total Annual Burden Hours: 582

In compliance with the requirements of section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: April 5, 2010.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2010–7983 Filed 4–7–10; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0286]

Kevin Xu: Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (the act) permanently debarring Kevin Xu from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Mr. Xu was convicted of a felony under Federal law for conduct relating to the regulation of a drug product under the act. Mr. Xu was given notice of the proposed permanent debarment and an opportunity to request a hearing within the timeframe prescribed by regulation. As of September 23, 2009, Mr. Xu has failed to respond. Mr. Xu's failure to respond constitutes a waiver of his right to a hearing concerning this action.

DATES: This order is effective April 8, 2010.

ADDRESSES: Submit applications for special termination of debarment to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kenny Shade, Division of Compliance Policy (HFC–230), Office of Enforcement, Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 240–632–6844.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(a)(2)(B) of the act (21 U.S.C. 335a(a)(2)(B)) requires debarment of an individual if FDA finds that the individual has been convicted of a felony under Federal law for conduct otherwise relating to the regulation of any drug product under the act.

On January 20, 2009, the U.S. District Court for the Southern District of Texas entered judgment against Mr. Xu for one count of participating in a conspiracy to traffic and attempt to traffic in counterfeit goods, to cause the introduction and delivery for introduction of misbranded prescription drugs into interstate commerce, and to cause the counterfeiting of trademarks in violation of 18 U.S.C. 371, three counts of causing the introduction and delivery for introduction of misbranded prescription drugs into interstate commerce in violation of 21 U.S.C. 331(a) and 21 U.S.C. 333(a)(2), and one count of trafficking in counterfeit goods

in violation of 18 U.S.C. 2320(a) and 18 U.S.C. 2320(a)(2).

FDA's finding that debarment is appropriate is based on the felony convictions referenced herein for conduct relating to the regulation of a drug product. The factual basis for those convictions is as follows: From July 2006 until on or about July 2007, Mr. Xu did knowingly, intentionally, and willfully conspire and agree with other persons to import pharmaceutical drug products that bore the trademarks ZYPREXA, TAMIFLU, CASODEX, PLAVIX, and ARICEPT without the authorization of the manufacturer of these drugs, and then to resell these products to the public.

On or about December 8, 2007, Mr. Xu used an Internet email address to send an email listing the tracking numbers connected to the sale of counterfeit pharmaceuticals. On or about April 9, 2007, Mr. Xu caused coconspirators residing in the Republic of China to place in interstate commerce for shipment to the United States various blister strips containing counterfeit TAMIFLU, CASODEX, ZYPREXA, and PLAVIX.

On or about December 8, 2006, with the intent to defraud or mislead, Mr. Xu caused the introduction and delivery for introduction into interstate commerce of drugs that were misbranded, namely a shipment containing blister strips of TAMIFLU capsules that were labeled in a manner to falsely represent that these blister strips contained genuine TAMIFLU.

On or about January 3, 2007, with the intent to defraud or mislead, Mr. Xu caused introduction and delivery for introduction into interstate commerce of drugs that were misbranded, namely a shipment containing blister strips of ZYPREXA pills that were labeled in a manner to falsely represent that these blister strips contained genuine ZYPREXA.

On or about February 20, 2007, with the intent to defraud or mislead, Mr. Xu caused the introduction and delivery for introduction into interstate commerce of drugs that were misbranded, namely a shipment containing blister strips of PLAVIX pills that were labeled in a manner to falsely represent that these blister strips contained genuine PLAVIX.

On or about December 8, 2006, Mr. Xu intentionally trafficked in goods, namely pharmaceutical drugs, and knowingly used a counterfeit mark, the ZYPREXA trademark, on and in connection with such goods.

As a result of his conviction, on August 17, 2009, FDA sent Mr. Xu a notice by certified mail proposing to permanently debar him from providing services in any capacity to a person that has an approved or pending drug product application. The proposal was based on a finding, under section 306(a)(2)(B) of the act that Kevin Xu was convicted of a felony under Federal law for conduct relating to the regulation of a drug product under the act. The proposal also offered Mr. Xu an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Mr. Xu failed to respond within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and any contentions concerning his debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Acting Director, Office of Enforcement, Office of Regulatory Affairs, under section 306(a)(2)(B) of the act, under authority delegated to the Acting Director (Staff Manual Guide 1410.35), finds that Kevin Xu has been convicted of a felony under Federal law for conduct relating to the regulation of a drug product under the act.

As a result of the foregoing finding, Mr. Xu is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application under sections 505, 512, or 802 of the act (21 U.S.C. 355, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective (see **DATES**) (see section 306(c)(1)(B) and (c)(2)(A)(ii) and section 201(dd) of the act (21 U.S.C. 321(dd))). Any person with an approved or pending drug product application who knowingly employs or retains as a consultant or contractor, or otherwise uses the services of Kevin Xu, in any capacity during Mr. Xu's debarment, will be subject to civil money penalties (section 307(a)(6) of the act (21 U.S.C. 335b(a)(6))). If Mr. Xu provides services in any capacity to a person with an approved or pending drug product application during his period of debarment he will be subject to civil money penalties (section 307(a)(7) of the act). In addition, FDA will not accept or review any abbreviated new drug applications submitted by or with the assistance of Mr. Xu during his period of debarment (section 306(c)(1)(B) of the act).

Any application by Mr. Xu for special termination of debarment under section 306(d)(4) of the act should be identified with Docket No. FDA–2009–N–0286 and sent to the Division of Dockets Management (see **ADDRESSES**). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j).

Publicly available submissions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 15, 2010.

Brenda Holman,

Acting Director, Office of Enforcement, Office of Regulatory Affairs.

[FR Doc. 2010–8023 Filed 4–7–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–F–0103]

Nisso America, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Nisso America, Inc., has filed a petition proposing that the food additive regulations for hydroxypropyl cellulose be amended by lowering the minimum viscosity from 145 centipoises (cPs) to 10 cPs and to permit its use as a binder in dietary supplements.

FOR FURTHER INFORMATION CONTACT: Laura Dye, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 301–436–1275.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 0A4780) has been filed by Nisso America, Inc., 45 Broadway, suite 2120, New York, NY 10006. The petition proposes to amend the food additive regulations in § 172.870 *Hydroxypropyl cellulose* (21 CFR 172.870) by lowering the minimum permitted viscosity of hydroxypropyl cellulose identified in paragraph (a)(1) of this regulation from 145 cPs to 10 cPs and to permit its use as a binder in dietary supplements.

The agency has determined under 21 CFR 25.32(k) 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.

Dated: March 17, 2010.

Mitchell A. Cheeseman,

Acting Director, Office of Food Additive Safety, Center for Food Safety and Applied Nutrition.

[FR Doc. 2010–7955 Filed 4–7–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0001]

Vaccines and Related Biological Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Vaccines and Related Biological Products Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on May 7, 2010, from 8 a.m. to approximately 4:30 p.m.

Location: Hilton Hotel Washington DC North/Gaithersburg, 620 Perry Pkwy., Gaithersburg, MD 20877.

Contact Person: Christine Walsh or Denise Royster, Center for Biologics Evaluation and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512391. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: On May 7, 2010, in the morning, the committee will review and discuss available data regarding the unexpected finding of DNA originating from porcine circovirus type 1 (PCV 1) in Rotarix, a U.S. licensed vaccine manufactured by GlaxoSmithKline and indicated for the prevention of rotavirus gastroenteritis in infants. The committee will discuss what additional steps should be considered to address this finding. In the afternoon, the committee will discuss and make recommendations on the use of advanced analytical detection methods not currently applied for the characterization of cell substrates, viral seeds, and other biological materials used in the production of viral vaccines for human use.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before May 4, 2010. Oral presentations from the public will be scheduled between approximately 10:50 a.m. and 11:20 a.m. and 2:45 p.m. and 3:15 p.m. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before April 29, 2010. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by April 30, 2010.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA 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 Christine Walsh or Denise Royster at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 2, 2010.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2010–8025 Filed 4–7–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Secretary's Advisory Committee on Heritable Disorders in Newborns and Children; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: Secretary's Advisory Committee on Heritable Disorders in Newborns and Children.

Dates and Times: May 13, 2010, 8:30 a.m. to 5 p.m. May 14, 2010, 8:30 a.m. to 3:30 p.m.

Place: Renaissance Washington, DC Dupont Circle Hotel, 1143 New Hampshire Avenue, NW., Washington, DC 20037.

Status: The meeting will be open to the public with attendance limited to space availability. Participants are asked to register for the meeting by going to the registration Web site at *http://events.SignUp4.com/ACHDNC0510.* The registration deadline is Tuesday, May 11, 2010. Individuals who need special assistance, such as sign language interpretation or other reasonable accommodations should indicate their needs on the registration Web site. The deadline for special accommodation requests is Friday, May 7, 2010. If there are technical problems gaining access to the Web site, please contact Maureen Ball, Meetings Coordinator, at *conferences@altarum.org.*

Purpose: The Secretary's Advisory Committee on Heritable Disorders in Newborns and Children (Advisory Committee) was established to advise

and guide the Secretary regarding the most appropriate application of universal newborn screening tests, technologies, policies, guidelines and programs for effectively reducing morbidity and mortality in newborns and children having or at risk for heritable disorders. The Advisory Committee also provides advice and recommendations concerning the grants and projects authorized under the Public Health Service Act, 42 U.S.C. 300b–10, (Heritable Disorders Program) as amended in the Newborn Screening Saves Lives Act of 2008.

Agenda: The meeting will include: (1) A presentation of the External Review Workgroup's final report on the nomination of Hemoglobin H disease to the Advisory Committee's recommended uniform screening panel; (2) presentations related to the system, information, and technology needs of newborn screening programs; (3) an update on the report being developed by the Sickle Cell Disease Carrier Screening workgroup; and (4) presentations on the continued work and reports of the Advisory Committee's subcommittees on laboratory standards and procedures, follow-up and treatment, and education and training.

Proposed Agenda items are subject to change as priorities dictate. You can locate the Agenda, Committee Roster and Charter, presentations, and meeting materials at the home page of the Advisory Committee's Web site at *http://www.hrsa.gov/heritabledisorderscommittee/.*

Web cast: The meeting will be Web cast. Information on how to access the Web cast will be available one week prior to the meeting, May 6, 2010, by clicking on the meeting date link at *http://events.SignUp4.com/ACHDNC0510.*

Public Comments: Members of the public can present oral comments during the public comment periods of the meeting, which are scheduled for both days of the meeting. Those individuals who want to make a comment are requested to register online by Tuesday, May 11, 2010, at *http://events.SignUp4.com/ACHDNC0510.* Requests will contain the name, address, telephone number, and any professional or business affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The list of public comment participants will be posted on the Web site. Written comments should be e-mailed via e-mail no later than Tuesday, May 11, 2010, for consideration. Comments should be submitted to Maureen Ball, Meetings Coordinator, Conference and Meetings Management, Altarum Institute, 1200 18th Street, NW., Suite 700, Washington, DC 20036; telephone: 202–828–5100; fax: 202–785–3083; or e-mail: *conferences@altarum.org.*

Contact Person: Anyone interested in obtaining other relevant information should write or contact Alaina M. Harris, Maternal and Child Health Bureau, Health Resources and Services Administration, Room 18A–19, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–0721, *aharris@hrsa.gov.* More information on the Advisory Committee is available at *http://mchb.hrsa.gov/heritabledisorderscommittee.*

Dated: March 31, 2010.

Sahira Rafiullah,

Director, Division of Policy and Information Coordination.

[FR Doc. 2010–7929 Filed 4–7–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Privacy Act of 1974; Report of an Altered System of Records

AGENCY: Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA).

ACTION: Notice of an Altered System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, the Health Resources and Services Administration (HRSA) is publishing notice of a proposal to substantially revise "Public Health Service (PHS) and National Health Service Corps (NHSC) Scholarship/Loan Repayment Participants Records System, HHS/HRSA/BPHC," HRSA Systems of Records No. 09–15–0037, to reflect organizational and physical location changes, and to update the categories of individuals and records covered by the system. HRSA is also proposing to (a) delete the Nursing Student Education Direct Loan Program, which is not administered by HRSA; (b) add records pertaining to the Nursing Scholarship Program and the Student/Resident Experiences and Rotations in Community Health (SEARCH) Program; and (c) incorporate the Faculty Loan Repayment Program and the Physician Shortage Area Scholarship Program, which previously had their own System of Records Notices (09–15–0058, and 09–15–0042 respectively). These changes will require renaming the system of records and expanding the Authority to maintain the system. HRSA has updated the section on maintenance and storage of records to reflect current technologies, as well as Purpose(s), Safeguards, Retention and Disposal (of records), Notification Procedures, and Records source categories to detail current operations. HRSA is proposing to delete routine uses that are obsolete and to add new routine uses that cover disclosures of information needed for effective program operations.

DATES: HRSA filed an altered system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Homeland Security and Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on March 15, 2010. To ensure all parties have adequate time in which to comment, the altered systems, including the routine uses, will become effective 30 days from the publication of the notice or 40 days from the date it was submitted to OMB and Congress, whichever is later, unless HRSA receives comments that require alterations to this notice.

ADDRESSES: Please address comments to: Policy Director, Bureau of Clinician Recruitment and Service (BCRS), Health Resources and Services Administration (HRSA), 5600 Fishers Lane, Room 8–15, Rockville, MD 20857, telephone (301) 443–4154, FAX (301) 594–4076. Comments received will be available for inspection at this same address from 9 a.m. to 3 p.m. (Eastern Standard Time Zone), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Associate Administrator, Bureau of Clinician Recruitment and Service (BCRS), Health Resources and Services Administration (HRSA), 5600 Fishers Lane, Room 8–05, Rockville, MD 20857, telephone (301) 594–4200, FAX (301) 594–4076.

SUPPLEMENTARY INFORMATION: Major Modification of 09–15–0037 is to reflect the organizational, program, technology, statutory and implementation changes.

1. HRSA proposes to rename the system of records as "Public Health and National Health Service Corps (PH/NHSC) Scholarship Training Program, the Physician Shortage Area Scholarship Program (PSASP), National Health Service Corps Scholarship Program (NHSC SP), National Health Service Corps Loan Repayment Program (NHSC LRP), NHSC Student/Resident

Experiences and Rotations in Community Health (SEARCH), Nursing Education Loan Repayment Program (NELRP), Nursing Scholarship Program (NSP), Native Hawaiian Health Scholarship Program (NHHSP), and Faculty Loan Repayment Program (FLRP), Applicants and/or Participants Records System, HHS/HRSA/BCRS."

2. HRSA proposes to expand the Authority to maintain the system to include: Section 333 of the PHS Act, as amended (42 U.S.C. 254f), Assignment of Corps Personnel; Section 225 of the PHS Act (42 U.S.C. 234), as in effect on September 30, 1977, PH/NHSC Scholarship Training Program; Section 409(b) of the Health Professions Educational Assistance Act of 1976, (42 U.S.C. 259g), PSASP; Sections 338A–H of the PHS Act, as amended (42 U.S.C. 254l-q), NHSC Scholarship and Loan Repayment Programs; Sections 336(c) and 331(b)(1) of the PHS Act (42 U.S.C. 254h-1(c) and 254d(b)(1)), SEARCH; Section 846 of the PHS Act, as amended (42 U.S.C. 297n), Nursing Education Loan Repayment and Nursing Scholarship Programs; Section 10 of the Native Hawaiian Health Care Improvement Act, as amended (42 U.S.C. 11709), Native Hawaiian Health Scholarship Program; Section 738(a) of the PHS Act (42 U.S.C. 293b(a)), Faculty Loan Repayment Program; Section 202 of Title II of Public Law 92–157 (42 U.S.C. 3505d), National Health Manpower Clearinghouse; 31 U.S.C. 7701(c), Debt Collection Improvement Act of 1996, Requirement That Applicant Furnish Taxpayer Identifying Number; Section 215(a) of the PHS Act, as amended (42 U.S.C. 216(a)), pertaining to PHS commissioned officers, and 5 U.S.C. 3301 pertaining to civil service employees, both of which authorize verification of an individual's suitability for employment.

3. HRSA proposes to expand the categories of records within the system to include: Name, address(es), telephone number(s), e-mail address(es), Social Security Number (SSN), scholarship, loan repayment, or SEARCH application and associated forms/documents, contracts, employment data, professional performance and credentialing history of licensed health professionals; preference for site-selection; personal, professional, and demographic background information; academic and/or service progress reports (which include related data, correspondence, and professional performance information consisting of continuing education, performance awards, and adverse or disciplinary actions); commercial credit reports, educational data including tuition and other related education expenses; educational data including academic program and status; employment status verification (which includes certifications and verifications of service obligation); medical data, financial data, payment data and related forms, deferment/placement/suspension/waiver data and supporting documentation; repayment/delinquent/default status information, correspondence to and from Program applicants and participants and/or their representatives, Claims Collection Litigation Reports for default cases referred to the Department of Justice (DOJ).

4. HRSA proposes to update the purposes of this system of records to more accurately describe the ways in which the Programs currently utilize the information maintained within. Specifically, to obtain marketing and recruitment information from individuals who registered to complete an online application but did not submit or complete an application, applicants and program participants; identify and select qualified individuals to participate in the Programs; to respond to inquiries from Program applicants and participants, their attorneys, and Congressional representatives; to compile and generate managerial and statistical reports; to track recruitment of SEARCH participants for the NHSC Scholarship and Loan Repayment Programs and to determine how many non-obligated SEARCH participants ultimately practice primary health care in HPSAs; and through the Ambassador and Alumni activities, to advocate for more health professions students to choose primary care, to mentor students and clinicians, to recruit students and clinicians for the NHSC Scholarship and Loan Repayment Programs, and to train community leaders, their own institution and local clinicians to care about and for people in need.

5. HRSA proposes to update the Safeguards by: Redefining Authorized Users (system managers and their staff, BCRS headquarters officials, HRSA Office of Performance Review staff, financial and fiscal management personnel, Office of the General Counsel, Office of Information Technology personnel, Papa Ola Lokahi (POL) (with respect to NHHSP records), and HRSA grantees and contractors who assist with implementation of the Programs) and Physical Safeguards (rooms where records are stored are locked when not in use, during regular business hours, rooms are unlocked but are controlled by on-site personnel (including the file room), security guards perform random checks on the physical security of the storage locations after duty hours, including weekends and holidays); entry control to servers and other computer equipment used to process identifiable data (located in secured areas and use physical access devices (*e.g.,* keys, locks, combinations, card readers) and/or security guards to control entries into the facility); fire protection (all facilities housing HRSA information systems maintain fire suppression and detection devices/systems (*e.g.,* sprinkler systems, handheld fire extinguishers, fixed fire hoses, and or smoke detectors) that can be activated in the event of a fire); and a description of POL's security procedures (the building in which POL's office is located is publicly accessible but secured, with limited accessibility before and after work hours, security guards visit the building at night, NHHSP's office suite is kept locked during work hours and individual offices are also locked when vacant, participant files are kept in a locked cabinet in a locked office and access to these files is limited to approved staff members, when the area the files are in is not under the direct control of NHHSP staff the office and cabinet are kept locked, the File server is behind a locked office door in a locked server cabinet and backup tapes are stored in a locked, fireproof floor safe, and a secure, confidential off-site vault).

6. HRSA proposes to update Retention and disposal as follows: Records are retained and disposed of under the authority of the HRSA Records Control Schedule contained in HRSA Appendix B–351, Item 25.P. Participant case files are transferred to the Federal Records Center in Suitland, Maryland, one year after closeout and are destroyed 15 years later. Unfunded or withdrawn applicant case files are destroyed 6 months after the end of the fiscal year in which the individual applied.

7. HRSA proposes to update Notification Procedures as follows: For Requests in person a notation is added that a Federal-issued picture ID is required to access many Federal facilities such as the Parklawn Building; and for Requests by mail dates of participation is expanded to encompass all the Programs in the system, and current status is expanded to include in training, in service, or date of application if the individual was not selected for the program.

8. HRSA proposes to update the Records source categories to include: Subject individual; educational institutions; internship and/or residency training progress reports; employers; NHSC approved service sites; critical

nursing shortage facilities; lending institutions and loan servicing agencies; health professional associations; National Practitioner Data Bank and/or Healthcare Integrity and Protection Data Bank, HHS grantees and contractors/subcontractors; consumer reporting agencies/credit bureaus; other Federal agencies, including but not limited to the Department of the Treasury, IRS, and the U.S. Postal Service; State health professions licensing boards and/or the Federation of State Medical Boards or a similar non-government entity; and third parties who provide references concerning the subject individual.

9. HRSA proposes to modify/alter/delete several published routine uses, and to include fifteen (15) new routine uses when all requirements have been met. HRSA is modifying/altering routine use #3 by expansion to include Tribal authorities and State licensing boards, routine use #4 has been expanded to include other health professions schools and to determine academic status of scholars, routine use #5 has been deleted and replaced with a new routine use #5 (*see* below), routine use #6 is renumbered as #8 and is expanded to include grantees and sites, routine use #7 is renumbered as #10 and is expanded to include grantees and sites and inquiries to the Excluded Parties List System and the National Practitioner Data Bank and/or Healthcare Integrity and Protection Data Bank, routine use #8 is renumbered as #12, routine use #9 is expanded to include disclosure to State or local government licensing board and/or to the Federation of State Medical Boards or a similar non-government entity, prospective employers, or to site representatives, and Primary Care Associations and Primary Care Offices, routine use #10 is renumbered as #14 and expanded to include loan repayment applicants, validation of loans eligible for loan repayment and whether the applicant has ever defaulted on a Federal or State obligation or had delinquent Federal or State debts, including judgment liens and to locate delinquent and/or non-compliant defaulters, routine use #11 is renumbered as #17, routine use #12 is renumbered as #18, routine use #13 is renumbered as #19, routine use #14 is renumbered as #21 and expanded to include reference to HHS Claims Collection regulation at 45 CFR 30.32(c), requiring HHS to report to the Treasury Department, IRS, as taxable income to the debtor, the discharge of any indebtedness of $600 or more when HHS terminates collection activity, routine use #15 is deleted and replaced by a new routine use #15 (*see* below), routine use #16 is renumbered as #22, routine use #17 is renumbered as #24 and expanded to include bonus clauses and to determine the existence of another service obligation, routine use #18 is expanded from disclosure to the IRS to 'another agency.'

HHS proposes to add 15 new routine uses as follows: Routine use #5 provides disclosure to schools and training programs to ascertain enrollment and completion date, routine use #6 provides disclosure to entities for the purpose of their providing support during service, routine use #7 provides disclosure of SEARCH participants for matching purposes, routine use #11 provides disclosure to State Primary Care Offices (PCOs) and Primary Care Associations (PCAs) and site representatives to facilitate recruitment, placement and service monitoring, routine use #13 provides disclosure to Federal and State health agencies and law enforcement regarding a program participant who has a physical or mental condition that is, or has the potential to become, a public health risk, or whose aberrant behavior may pose such a risk, routine use #15 enables HHS to use information to prepare and maintain financial management and accounting documentation related to obligations and disbursements of funds, including notifications to the Department of the Treasury related to payments to, or on behalf of, awardees, routine use #16 provides disclosure to lending institutions for the purpose of obtaining payoff balances on educational loans, routine use #20 provides disclosure to another Federal, State, or local agency or private employer to whom a Program defaulter (debtor) has applied for funds, or employment involving Federal funds, for the purpose of ensuring that the Program defaulter does not receive Federal funds for which he/she is ineligible, routine use #23 provides disclosure to the Department of Justice, and applicable State agencies in order to exclude a debtor from Medicare/Medicaid or to conclude a settlement agreement staying such an exclusion, routine use #25 provides disclosure for research purposes, routine use #26 provides disclosure in response to a subpoena, routine use #27 provides disclosure to HHS/PSC/FOH physicians to review and provide a written opinion of the medical documentation submitted by participants requesting to suspend or waive their service or payment obligation, routine use #28 provides disclosure in response to a suspected or confirmed breach of the security or confidentiality of information. There is also a provision to allow transfer of records to System No. 09–40–0012, Debt Management and Collection System, HHS/PSC/FMS and System No. 09–90–0024, Financial Transactions of HHS Accounting and Finance Offices, HHS/ASMB, for payment of Program funds and debt collection purposes.

In addition to updating and making editorial corrections to improve the clarity of the system notice, this alteration involves the updating of the System Location and System Manager listing, and revisions of the Categories of Records, Purposes, Authority, Safeguards, Retention and Disposal, and Notification Procedures sections.

Dated: March 29, 2010.

Mary K. Wakefield,

Administrator.

SYSTEM NUMBER: 09–15–0037.

SYSTEM NAME:

Public Health and National Health Service Corps (PH/NHSC) Scholarship Training Program, the Physician Shortage Area Scholarship Program (PSASP), National Health Service Corps Scholarship Program (NHSC SP), National Health Service Corps Loan Repayment Program (NHSC LRP), NHSC Student/Resident Experiences and Rotations in Community Health (SEARCH), Nursing Education Loan Repayment Program (NELRP), Nursing Scholarship Program (NSP), Native Hawaiian Health Scholarship Program (NHHSP), and Faculty Loan Repayment Program (FLRP), Applicants and/or Participants Records System, HHS/HRSA/BCRS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

For a specified period and in accordance with the archiving rules, the paper records will reside at the Bureau of Clinician Recruitment and Service (BCRS), Health Resources and Services Administration (HRSA), U.S. Department of Health and Human Services (HHS), 5600 Fishers Lane, Rm. 8A–16, Rockville, MD 20857. The electronic copy of the records for PH/NHSC, PSASP, and NHSC SP and LRP applicants and participants resides in BHCDANET at Center for Information Technology, National Institutes of Health, 12 South Drive, Room 1100, Bethesda, Maryland 20892. Development of a replacement data system for this legacy system is currently on-going; information pertaining to this new system will be available upon request. Electronic copy

of the records for NELRP and NSP resides in the Nursing Information System at 5600 Fishers Lane, Rockville, Maryland 20857. Electronic copy of the records for FLRP resides in the Division of Applications and Awards, BCRS, HRSA, HHS, 5600 Fishers Lane, Rm. 8–30, Rockville, MD 20857.

Archived records are stored at the Washington National Records Center, 4205 Suitland Road, Suitland, MD 20746.

NHHSP records are also located at Papa Ola Lokahi (POL), 345 Queen St., #706, Honolulu, HI 96813.

Additional records are kept by contractors to the Programs at the following locations:

NSP and FLRP, HRSA Call Center, 12530 Parklawn Drive, Suite 350, Rockville, Maryland 20857.

NHSC SCH and LRP, Discovery Logic, 1375 Piccard Drive, Suite 360, Rockville, Maryland 20850.

NHSC LRP and NELRP, Focal Point Consulting Group, 1025 Vermont Avenue NW., Suite 1000, Washington, DC 20005.

BL Seamon Corporation, 9001 Edmonston Road, Suite 200, Greenbelt, MD 20770.

Since contractors may change, a current listing of contractors and locations (if different than above) is available upon request.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for, who have been approved to receive, who are receiving, or who have received awards under the following programs: The Public Health and National Health Service Corps (PH/NHSC) Scholarship Training Program, the Physician Shortage Area Scholarship Program (PSASP), the National Health Service Corps Scholarship Program (NHSC SP), the National Health Service Corps Loan Repayment Program (NHSC LRP), the Nursing Education Loan Repayment Program (NELRP), the Nursing Scholarship Program (NSP), the Native Hawaiian Health Scholarship Program (NHHSP), and Faculty Loan Repayment Program (FLRP). Individuals who have applied to participate, are participating, or have participated in the NHSC Student/Resident Experiences and Rotations in Community Health (SEARCH) Program.

Individuals who have applied to serve, have been selected to serve, are currently serving, or have served as NHSC volunteers or Ready Responders.

Individuals who have applied to participate, are currently participating or have participated as an Ambassador for the NHSC or who are Alumni of the NHSC.

Individuals who indicate an interest in employment in or an assignment to a medical facility located in a Health Professional Shortage Area (HPSA) or a medically underserved population area, including public and Federal medical facilities, such as Bureau of Prisons medical facilities, Indian Health Service health care facilities, and other Federally sponsored health care facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, address(es), telephone number(s), e-mail address(es), Social Security Number (SSN), scholarship, loan repayment, or SEARCH application and associated forms/documents, contracts, employment data, professional performance and credentialing history of licensed health professionals; preference for site-selection; personal, professional, and demographic background information; academic and/or service progress reports (which include related data, correspondence, and professional performance information consisting of continuing education, performance awards, and adverse or disciplinary actions); commercial credit reports, educational data including tuition and other related education expenses; educational data including academic program and status; employment status verification (which includes certifications and verifications of service obligation); medical data, financial data, payment data and related forms, deferment/placement/suspension/waiver data and supporting documentation; repayment/delinquent/default status information, correspondence to and from Program applicants and participants and/or their representatives, Claims Collection Litigation Reports for default cases referred to the Department of Justice (DOJ).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 333 of the Public Health Service (PHS) Act, as amended (42 U.S.C. 254f), Assignment of Corps Personnel; Section 225 of the PHS Act (42 U.S.C. 234), as in effect on September 30, 1977, PH/NHSC Scholarship Training Program; Section 409(b) of the Health Professions Educational Assistance Act of 1976, (42 U.S.C. 259g), PSASP; Sections 338A–H of the PHS Act, as amended (42 U.S.C. 254*l*–q), NHSC Scholarship and Loan Repayment Programs; Sections 336(c) and 331(b)(1) of the PHS Act (42 U.S.C. 254h–1(c) and 254d(b)(1)), SEARCH; Section 846 of the PHS Act, as amended (42 U.S.C. 297n), Nursing Education Loan Repayment and Nursing Scholarship Programs; Section 10 of the Native Hawaiian Health Care Improvement Act, as amended (42 U.S.C. 11709), Native Hawaiian Health Scholarship Program; Section 738(a) of the PHS Act (42 U.S.C. 293b(a)), Faculty Loan Repayment Program; Section 202 of Title II of Public Law 92–157 (42 U.S.C. 3505d), National Health Manpower Clearinghouse; 31 U.S.C. 7701(c), Debt Collection Improvement Act of 1996, Requirement That Applicant Furnish Taxpayer Identifying Number; Section 215(a) of the PHS Act, as amended (42 U.S.C. 216(a)), pertaining to PHS commissioned officers, and 5 U.S.C. 3301 pertaining to civil service employees, both of which authorize verification of an individual's suitability for employment.

PURPOSE(S):

The purposes of this system of records are as follows:

With respect to all the above-identified Programs:

1. To obtain marketing and recruitment information from individuals who registered to complete an online application but did not submit or complete an application, applicants and program participants.

2. To identify and select qualified individuals to participate in the above-identified Programs (including NHSC Ready Responders, Ambassadors, Alumni, and volunteers);

3. To maintain records on and to verify applicants' or Program participants' credentials and educational background, and previous and current professional employment data and performance history information to verify that all claimed background and employment data are valid and all claimed credentials are current and in good standing from selection for an award through the completion of service;

4. To monitor loan repayment and scholarship activities, including, but not limited to, payment tracking, deferment of service obligation, service compliance at approved sites, service completion, default, and suspension or waiver of the obligation;

5. To assist the HHS Program Support Center (PSC), the DOJ, and other government officials in the collection of Program debts;

6. To respond to inquiries from Program applicants and participants, their attorneys, and Congressional representatives.

7. To compile and generate managerial and statistical reports.

8. With respect to the PH/NHSC and NHSC SP, NHHSP, NSP, NHSC LRP, NELRP, and FLRP: (a) To monitor related activities, such as site matching and placement at approved sites, service completion, suspension and waiver, default, and claims determination; (b) To select and match scholarship recipients, loan repayors, and other individuals for assignment to or employment with a health care or other facility appropriate to the Programs' purposes; (c) To monitor the services provided by the Programs' health providers;

9. With respect to the SEARCH Program, to track recruitment of SEARCH participants for the NHSC Scholarship and Loan Repayment Programs and to determine how many non-obligated SEARCH participants ultimately practice primary health care in HPSAs.

10. With respect to the Ambassador and Alumni activities, to advocate for more health professions students to choose primary care, to mentor students and clinicians, to recruit students and clinicians for the NHSC Scholarship and Loan Repayment Programs, and to train community leaders, their own institution and local clinicians to care about and for people in need.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. HHS may disclose to a Member of Congress or to a Congressional staff member information from the record of an individual in response to an inquiry from the congressional office made at the written request of that individual.

2. HHS may disclose information from this system of records to the DOJ, or to a court or other tribunal when:

(a) HHS, or any component thereof, or

(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the DOJ, the court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

3. In the event that a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether Federal, State, local, or Tribal, or other public authority responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutive responsibility of the receiving entity. This includes, but is not limited to, disciplinary actions by State licensing boards against current or former Program participants.

4. HHS may disclose records consisting of names, SSN, disciplines, current mailing addresses, and dates of scholarship support and dates of graduation of the Programs' scholarship recipients to (a) designated coordinators at each health professions school participating in the scholarship program for the purpose of determining educational expenses and resulting levels of scholarship support, and for the purpose of guiding and informing these recipients about the nature of their service obligation; and (b) schools attended by NHSC SP, NSP, and NHHSP recipients who have taken a leave of absence from school or are repeating coursework, for the purpose of determining their academic status and whether their scholarship support should be suspended or resumed, as appropriate.

5. HHS may disclose information consisting of name, address, discipline/specialty, SSN from this system of records to a participant's health professions school, residency program, or other postgraduate training program, for the purpose of ascertaining a Program participant's enrollment status and training completion or graduation date.

6. HHS may disclose records consisting of names, disciplines, current business or school mailing addresses, e-mail addresses of the Programs' scholarship and loan repayment participants to contractors, Ambassadors, Alumni, and professional organizations in underserved communities for the purpose of supporting these clinicians in the course of their service obligation in HPSAs and critical nursing shortage facilities.

7. HHS or its contractors may disclose records consisting of a SEARCH participant's name, mailing address, e-mail address, phone number, health professions school, residency training and specialty to State Primary Care Offices (PCOs) and Primary Care Associations (PCAs) and site representatives for the purpose of matching participants to potential employment sites.

8. HHS may disclose records to Department grantees, sites, contractors and subcontractors who assist with the implementation of the above-identified Programs, for the purposes of collecting, compiling, aggregating, analyzing, or refining records in the system, or improving Program operations. Grantees and contractors maintain, and contractors are also required to ensure that subcontractors maintain, Privacy Act safeguards with respect to such records.

9. HHS may disclose biographical data and information supplied by Program applicants or participants (a) to references listed on application and associated forms for the purpose of evaluating the applicant's or participant's professional qualifications, experience, and suitability; (b) to a State or local government licensing board and/or to the Federation of State Medical Boards or a similar non-government entity for the purpose of verifying that all claimed background and employment data are valid and all claimed credentials are current and in good standing; and (c) to prospective employers, or to site representatives, PCAs and PCOs for the purpose of appraising the applicant's professional qualifications and suitability for site assignment or employment.

10. HHS may disclose an applicant's or participant's name, mailing address, e-mail address, phone number, health professions school, residency training and specialty to Department grantees, sites, contractors and subcontractors who assist with the implementation of the above-identified Programs, for the purpose of recruiting, screening, evaluating, and matching, placing or assigning health professionals to a service site appropriate to the relevant Program's purposes. In addition, Department grantees, contractors and subcontractors may disclose biographical data and information supplied by Program applicants, participants, or references listed on application and associated forms (a) to other references for the purpose of evaluating the applicant's or participant's professional qualifications, experience, and suitability; (b) to a State or local government licensing board

and/or to the Federation of State Medical Boards or a similar non-government entity for the purpose of verifying that all claimed background and employment data are valid and all claimed credentials are current and in good standing; (c) to the Excluded Parties List System for the purpose of determining whether they appear as suspended, debarred, or disqualified from participation in covered transactions; (d) to the National Practitioner Data Bank and/or Healthcare Integrity and Protection Data Bank for the purpose of determining whether they have information on their reports; and (e) to prospective employers, or to site representatives, for the purpose of appraising the applicant's professional qualifications and suitability for site assignment or employment. Grantees and contractors maintain, and contractors are also required to ensure that subcontractors maintain Privacy Act safeguards with respect to such records.

11. HHS may disclose records consisting of name, mailing address, e-mail address, phone number, SSN, specialty, and requested or actual placement site(s) to State PCOs and PCAs and site representatives to facilitate PCO, PCA and site activities related to recruitment and placement of Program participants at service sites and monitoring compliance with the program participant's service obligation.

12. HHS may disclose records consisting of name, address, SSN, employment history, educational data, accreditation, licensing, and professional qualification data to a State or local government licensing board and/or to the Federation of State Medical Boards or a similar non-government entity which maintains records concerning: (a) An individual's employment history; (b) the issuance, retention, suspension, revocation, or reinstatement of licenses or registrations necessary to practice a health professional occupation or specialty; (c) disciplinary action against the individual or other sanctions imposed by a State or local government licensing board; or (d) the individual's attempts to pass health professions licensure exam(s). The purposes of this disclosure are: (1) To enable HHS to obtain information relevant to a decision concerning a health professional's accomplishments, professional and personal background qualifications, experience, and any licensure sanctions related to substance abuse, to determine the individual's suitability for employment, retention, or termination as a health services provider at a health care facility approved by the relevant Program, and (2) to inform health professions licensing boards or the appropriate non-government entities about the health care practices or conduct of a practicing, terminated, resigned, or retired health services provider whose professional conduct so significantly failed to conform to generally accepted standards of professional practice for health care providers as to raise reasonable concern for the health and safety of patients.

13. HHS may disclose information consisting of name, address, SSN, health professions license number, and place of employment from this system of records to Federal, State, or local health agencies and law enforcement regarding a program participant who has a physical or mental condition that is, or has the potential to become, a risk to patients or to the public at large, or whose aberrant behavior poses such a risk (*e.g.,* commission of a sexual assault, illegal use or distribution of narcotics).

14. HHS may disclose information from this system of records to a consumer reporting agency, as defined in 31 U.S.C. 3701(a)(3), for the following purposes:

(a) To obtain a commercial credit report to assess the creditworthiness of a scholarship or loan repayment applicant;

(b) To verify information provided on the scholarship or loan repayment application concerning whether the applicant has ever defaulted on a Federal or State obligation or had delinquent Federal or State debts, including judgment liens;

(c) To determine and verify the eligibility of loans submitted for repayment;

(d) To assess and verify ability of a debtor to repay debts owed to the Federal Government; and

(e) To locate delinquent and/or non-compliant defaulters;

(f) To provide an incentive for debtors to repay delinquent Federal debts by making these debts part of their credit records.

Pursuant to 31 U.S.C. 3711(e)(1)(F), the information disclosed to the consumer reporting agency is limited to (i) information necessary to establish the identity of the person, including name, address, and taxpayer identification number; (ii) the amount, status, and history of the claim; and (iii) the agency or program under which the claim arose.

15. HHS may use information from this system of records to prepare and maintain financial management and accounting documentation related to obligations and disbursements of funds, including notifications to the Department of the Treasury related to payments to, or on behalf of, awardees. Disclosures are limited to the individual's name, address, SSN and other information necessary to identify him/her, the funding being sought or amount of qualifying educational loans, and the program under which the applicant is being processed.

16. HHS may disclose information about NHSC LRP, NELRP, and FLRP applicants or participants to lending institutions for the purpose of obtaining payoff balances on educational loans. Disclosure will be limited to the applicant/participant's name, address, SSN, the loan account number(s), the pre-verified loan balance, account status, and other information necessary to identify the LRP applicant/participant and his/her loans for this purpose.

17. HHS may disclose from this system of records a delinquent debtor's or defaulting participant's name, address, SSN, and other information necessary to identify him/her; the amount, status, and history of the claim, and the agency or program under which the claim arose, as follows:

(a) To another Federal agency so that agency can effect a salary offset for debts owed by Federal employees.

(b) To another Federal agency so that agency can effect an authorized administrative offset; *i.e.,* withhold money, other than Federal salaries, payable to or held on behalf of the individual.

(c) To the Treasury Department, Internal Revenue Service (IRS), to request an individual's current mailing address to locate him/her for purposes of either collecting or compromising a debt, or to have a commercial credit report prepared.

18. HHS may disclose information from this system of records to another Federal or State agency that has asked the Department to effect a salary or administrative offset to help collect a debt owed to the United States or to a State (*e.g.,* administrative offset under a reciprocal agreement with a State, pursuant to 31 CFR 285.6). Disclosure includes, but is not limited to, the individual's name, address, SSN, other information necessary to identify the individual, and information about the money payable to or on behalf of, or held for, the individual.

19. HHS may disclose to the Department of the Treasury, IRS, information about an individual applying under the above-identified Programs to find out whether the applicant has a delinquent tax debt. This disclosure is for the sole purpose

of determining the applicant's eligibility for funding and/or creditworthiness and is limited to the individual's name, address, SSN, other information necessary to identify him/her, and the program for which the information is being obtained.

20. HHS may disclose information from this system of records to another Federal, State, or local agency or private employer to whom a Program defaulter has applied for Federal grant funds, Federal scholarship, loan, or loan repayment funds, or employment involving Federal funds, for the purpose of ensuring that the Program defaulter does not receive Federal funds for which he/she is ineligible. Disclosure will be limited to the defaulter's name, address, SSN, inclusion on the Excluded Parties List System, and any other information necessary to identify him/her.

21. As required by the HHS Claims Collection regulation at 45 CFR 30.32(c), HHS will report to the Treasury Department, IRS, as taxable income to the debtor, the discharge of any indebtedness of $600 or more when HHS terminates collection activity. The information disclosed may include the individual's name, address, SSN, account number, and amounts written-off, *e.g.,* principal, interest, and any charges assessed by statute.

22. HHS will disclose information from this system of records to any third party that may have information about a defaulting participant's current address, such as a U.S. Post Office, a State motor vehicle administration, a university's office of the registrar or dean's office, a professional organization, an alumni association, *etc.,* for the purpose of obtaining the individual's current address. This disclosure will be strictly limited to information necessary to identify the individual, without any reference to the reason for the agency's need for obtaining the current address.

23. HHS may disclose information from this system of records to the Department of Justice and applicable State agencies in order to exclude a debtor from all Federal health care programs, as defined in 42 U.S.C. 1320a–7b(f), including Medicare and Medicaid, or to conclude a settlement agreement staying such an exclusion.

24. HHS may disclose information from this system of records to other Federal, State, and local agencies, and public and private entities that provide scholarship and/or loan repayment funding or include bonus clauses in employment contracts, for the following purposes: (a) To curtail fraud and abuse of Federal funds by identifying individuals who have applied for, or accepted, funding from another source for performance of the same service; (b) to determine if an applicant has an existing service obligation to another Federal, State, local or other entity; and (c) to collect delinquent debts owed to the Federal Government.

25. HHS may disclose to Federal, State, and local agencies, and public and private non-profit entities for research purposes, the name, address(es), SSN, discipline and site of applicants and participants in the above-identified Programs when the Department:

(a) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

(b) Has determined that a bona fide research/analysis purpose exists;

(c) Has required the recipient to:

(1) Establish strict limitations concerning the receipt and use of applicant- and participant-identified data;

(2) Establish reasonable administrative, technical, and physical safeguards to protect the confidentiality of the data and to prevent the unauthorized use or disclosure of the record;

(3) Remove, destroy, or return the information that identifies the applicant or participant at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research nature for retaining such information; and

(4) Make no further use or disclosure of the record except as authorized by HHS or when required by law; and

(d) Has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

26. Disclosure may be made in response to a subpoena from another Federal agency having the power to subpoena other agencies' records, such as the Internal Revenue Service or Civil Rights Commission.

27. Disclosure of information from this system of records may be made to the HHS/PSC/Federal Occupational Health Service (FOH) contract physicians to review and provide a written opinion of the medical documentation submitted by scholarship and loan repayment Program participants seeking a suspension or waiver of their service or payment obligation.

28. HHS may disclose records to appropriate Federal agencies and Department contractors that have a need to know the information for the purpose of assisting the Department's efforts to respond to a suspected or confirmed breach of the security or confidentiality of information maintained in this system of records, and the information disclosed is relevant and necessary for that assistance.

Records may be transferred to System No. 09–40–0012, Debt Management and Collection System, HHS/PSC/FMS and System No. 09–90–0024, Unified Financial Management System, HHS, for payment of Program funds and debt collection purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

1. *Storage:* Records are maintained in file folders, on servers, and backup servers.

2. *Retrievability:* Name, Social Security number, or other identifying numbers or characteristics.

3. *Safeguards:*

A. *Authorized Users:* Access is limited to persons authorized and needing to use the records, system managers and their staff, BCRS headquarters officials, HRSA Office of Performance Review staff, financial and fiscal management personnel, Office of the General Counsel, Office of Information Technology personnel, Papa Ola Lokahi (with respect to NHHSP records), and HRSA grantees and contractors who assist with implementation of the Programs.

B. *Physical Safeguards:* Rooms where records are stored are locked when not in use. During regular business hours, rooms are unlocked but are controlled by on-site personnel (including the file room). Security guards perform random checks on the physical security of the storage locations after duty hours, including weekends and holidays.

Servers and other computer equipment used to process identifiable data are located in secured areas and use physical access devices (*e.g.,* keys, locks, combinations, card readers) and/or security guards to control entries into the facility. All facilities housing HRSA information systems maintain fire suppression and detection devices/systems (*e.g.,* sprinkler systems, handheld fire extinguishers, fixed fire hoses, and or smoke detectors) that can be activated in the event of a fire.

With respect to NHHSP records, the building in which POL's office is located is publicly accessible but secured, with limited accessibility before and after work hours. Security guards visit the building at night. NHHSP's office suite is kept locked

during work hours and individual offices are also locked when vacant. Participant files are kept in a locked cabinet in a locked office. Access to these files is limited to approved staff members, and when the area the files are in is not under the direct control of NHHSP staff, the office and cabinet are kept locked. The File server is behind a locked office door in a locked server cabinet. Backup tapes are stored in a locked, fireproof floor safe, and a secure, confidential off-site vault.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the HRSA Records Control Schedule contained in HRSA Appendix B–351, Item 25.P. Participant case files are transferred to the Federal Records Center in Suitland, Maryland, one year after closeout and are destroyed 15 years later. Unfunded or withdrawn applicant case files are destroyed 6 months after the end of the fiscal year in which the individual applied.

SYSTEM MANAGER(S) AND ADDRESS:

- *Policy-Coordinating Official:* Associate Administrator, Bureau of Clinician Recruitment and Service (BCRS), Health Resources and Services Administration (HRSA), 5600 Fishers Lane, Room 8–05, Rockville, MD 20857.
- *Scholarship and Loan Repayment Applicants/Awardees:* Director, Division of Applications and Awards, BCRS, HRSA, 5600 Fishers Lane, Room 8–37, Rockville, MD 20857.
- *Scholarship and Loan Repayment Participant Placement/Assignment and Service from matching through service completion:* Director, Division of Scholar and Clinician Support, BCRS, HRSA, 5600 Fishers Lane, Room 8A–19, Rockville, MD 20857.
- *Suspension/Waiver/Default Determination:* Director, Legal and Compliance Office, BCRS, HRSA, 5600 Fishers Lane, Room 8–47, Rockville, MD 20857.
- *NHHSP:* Administrator, Papa Ola Lokahi, 345 Queen St., # 706, Honolulu, HI 96813.
- *SEARCH:* Recruitment and Retention Support Branch, Division of Site and Clinician Recruitment, BCRS, HRSA, 5600 Fishers Lane, Room 8A–55, Rockville, MD 20857.
- *Ready Responders, Ambassadors, Alumni, and Volunteers:* Division of Site and Clinician Recruitment, BCRS, HRSA, 5600 Fishers Lane, Room 8A–55, Rockville, MD 20857.

NOTIFICATION PROCEDURE:

To find out if the system contains records about you, contact the Policy-Coordinating Official. The Policy-Coordinating Official will then refer the requester to the appropriate System Manager.

REQUESTS IN PERSON:

A subject individual who appears in person at a specific location seeking access to or disclosure of records relating to him/her shall provide his/her name, current address, Social Security number or other identifying information (*e.g.,* date of birth, place of birth), dates of participation in one of the above-identified Programs, (or date of application if the individual was not selected for the program) and at least one piece of tangible identification, such as driver's license, passport, or voter registration card. Identification papers with current photographs are preferred but not required. (A Federal-issued picture ID is required to access many Federal facilities such as the Parklawn Building.) If a subject individual has no identification but is personally known to an agency employee, such employee shall make a written record verifying the subject individual's identity. Where the subject individual has no identification papers, the responsible agency official shall require that the subject individual certify in writing that he/she is the individual who he/she claims to be and that he/she understands that the knowing and willful request or acquisition of a record concerning an individual under false pretenses is a criminal offense subject to a $5,000 fine.

REQUESTS BY MAIL:

A written request must contain the name and address of the requester, Social Security number or other identifying information, and his/her signature which is either notarized to verify his/her identity or includes a written certification that the requester is the person he/she claims to be and that he/she understands that the knowing and willful request or acquisition of records pertaining to an individual under false pretenses is a criminal offense subject to a $5,000 fine. In addition, the following information is needed: dates of participation in one of the above-identified Programs and current status, such as in training, in deferment, in service, in default, or date of application if the individual was not selected for the program.

REQUESTS BY TELEPHONE:

Since positive identification of the caller cannot be established, telephone requests are not honored.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also provide a reasonable description of the record being sought. Requesters may also ask for an accounting of disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Same as notification and access procedures. Contact the Policy-Coordinating Official, provide a reasonable description of the record, specify the information being contested, the corrective action sought, and the reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Subject individual; educational institutions; internship and/or residency training progress reports; employers; NHSC approved service sites; critical nursing shortage facilities; lending institutions and loan servicing agencies; health professional associations; National Practitioner Data Bank and/or Healthcare Integrity and Protection Data Bank, HHS grantees and contractors/subcontractors; consumer reporting agencies/credit bureaus; other Federal agencies, including but not limited to the Department of the Treasury, IRS, and the U.S. Postal Service; State health professions licensing boards and/or the Federation of State Medical Boards or a similar non-government entity; and third parties who provide references concerning the subject individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 2010–7923 Filed 4–7–10; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Privacy Act of 1974; Deletion of an Existing System of Records

AGENCY: Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA).

ACTION: Notice to delete an existing HRSA system of records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, HRSA is deleting an existing system of records titled the "Physician Shortage Area Scholarship Program, HHS, HRSA,

BPHC" HRSA System No. 09–15–0042. This system of records is being deleted in order to consolidate it with "Public Health Service (PHS) and National Health Service Corps~NHSC) Scholarship/Loan Repayment Participants Records System, HHS/HRSA/BPHC," HRSA System No. 09–15–0037, which is proposed to be modified/altered.

DATES: HRSA filed a deletion of a system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Homeland Security and Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on March 15, 2010. To ensure all parties have adequate time in which to comment, the deletion of the system will become effective 30 days from the publication of the notice or 40 days from the date it was submitted to OMB and Congress, whichever is later, unless HRSA receives comments that require alterations to this notice.

ADDRESSES: Please address comments to: Policy Director, Bureau of Clinician Recruitment and Service (BCRS), Health Resources and Services Administration (HRSA), 5600 Fishers Lane, Room 8–15, Rockville, MD 20857, telephone (301) 443–4154, FAX (301) 594–4076. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., Eastern Time Zone.

FOR FURTHER INFORMATION CONTACT: Associate Administrator, Bureau of Clinician Recruitment and Service (BCRS), Health Resources and Services Administration (HRSA), 5600 Fishers Lane, Room 8–05, Rockville, MD 20857, telephone (301) 594–4200, FAX (301) 594–4076. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Physician Shortage Area Scholarship Program (PSASP) system of records is consolidated with the system of records "Public Health Service (PHS) and National Health Service Corps—NHSC) Scholarship/Loan Repayment Participants Records System, HHS/HRSA/BPHC," HRSA System No. 09–15–0037, to reflect organizational changes within HRSA, including the creation of the Bureau of Clinician Recruitment and Service (BCRS).

Dated: March 29, 2010.

Mary K. Wakefield,

Administrator.

[FR Doc. 2010–7928 Filed 4–7–10; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Privacy Act of 1974; Deletion of an Existing System of Records

AGENCY: Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA).

ACTION: Notice to delete an existing system of records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, HRSA is deleting an existing system of records titled the "Faculty Loan Repayment Program, HHS, HRSA, BHPr" HRSA System No. 09–15–0058, established at Vol 65, No 7, **Federal Register**, pp. 1640–1, January 11, 2000. This system of records is being deleted in order to consolidate it with "Public Health Service (PHS) and National Health Service Corps~NHSC) Scholarship/Loan Repayment Participants Records System, HHS/HRSA/BPHC," HRSA System No. 09–15–0037, which is proposed to be modified/altered.

DATES: HRSA filed a deletion of a system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Homeland Security and Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on March 15, 2010. To ensure all parties have adequate time in which to comment, the deletion of the system will become effective 30 days from the publication of the notice or 40 days from the date it was submitted to OMB and Congress, whichever is later, unless HRSA receives comments that require alterations to this notice.

ADDRESSES: Please address comments to: Policy Director, Bureau of Clinician Recruitment and Service (BCRS), Health Resources and Services Administration (HRSA), 5600 Fishers Lane, Room 8–15, Rockville, MD 20857, telephone (301) 443–4154, FAX (301) 594–4076. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., Eastern Time Zone.

FOR FURTHER INFORMATION CONTACT: Associate Administrator, Bureau of Clinician Recruitment and Service (BCRS), Health Resources and Services Administration (HRSA), 5600 Fishers Lane, Room 8–05, Rockville, MD 20857, telephone (301) 594–4200, FAX (301) 594–4076. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: HRSA is proposing the consolidation of The Faculty Loan Repayment Program system of records, 09–15–0058 with the "Public Health Service (PHS) and National Health Service Corps~NHSC) Scholarship/Loan Repayment Participants Records System, HHS/HRSA/BPHC," HRSA System No. 09–15–0037, to reflect organizational changes within HRSA, including the creation of the Bureau of Clinician Recruitment and Service (BCRS).

Dated: March 29, 2010.

Mary K. Wakefield,

Administrator.

[FR Doc. 2010–7924 Filed 4–7–10; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Service Administration

Advisory Committee on Interdisciplinary, Community-Based Linkages; Notice for Request for Nominations

SUMMARY: The Health Resources and Services Administration (HRSA) is requesting nominations to fill ten upcoming vacancies on the Advisory Committee on Interdisciplinary, Community-Based Linkages (ACICBL).

Authority: 42 U.S.C. 294f, section 756 of the Public Health Service (PHS) Act, as amended. The Advisory Committee is governed by the Federal Advisory Act, Public Law (Pub. L.) 92–463, as amended (5 U.S.C. Appendix 2) which sets forth standards for the formation and use of advisory committees.

DATES: The Agency must receive nominations on or before June 30, 2010.

ADDRESSES: All nominations are to be submitted either by mail to Joan Weiss, PhD, RN, CRNP, Designated Federal Official, ACICBL, Division of Diversity and Interdisciplinary Education, Bureau of Health Professions (BHPr), Health Resources and Services Administration (HRSA), Parklawn Building, Room 9–36, 5600 Fishers Lane, Rockville, MD 20857 or e-mail to CAPT Norma J. Hatot at *nhatot@hrsa.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information, contact CAPT Norma J. Hatot, Senior Program Officer, Division of Diversity and Interdisciplinary Education, BHPr, by e-mail at *nhatot@hrsa.gov* or telephone at (301) 443–2681. A copy of the current committee membership, charter and

reports can be obtained by accessing the Advisory Committee Web site at *http://bhpr.hrsa.gov/interdisciplinary/ACICBL.htm*.

SUPPLEMENTARY INFORMATION: Under the authorities that established the ACICBL and the Federal Advisory Committee Act, HRSA is requesting nominations for ten committee members. The ACICBL provides advice and recommendations to the Secretary of Health and Human Services (Secretary) and to the Congress concerning policy, program development and other matters of significance related to interdisciplinary, community-based training grant programs authorized under sections 751–755, Title VII, Part D of the PHS Act. The ACICBL prepares an annual report describing the activities conducted during the fiscal year, identifying findings and developing recommendations to enhance these Title VII programs. The annual report is submitted to the Secretary and ranking members of the Senate Committee on Health, Education, Labor and Pensions, and the House of Representatives Committee on Energy and Commerce.

The Department of Health and Human Services is requesting a total of ten nominations for members of the ACICBL from schools that have administered or are currently administering awards from the following programs: Allied Health; Area Health Education Centers; Chiropractic Demonstration Program; Geriatric Academic Career Award; Geriatric Education Centers; Quentin N. Burdick Rural Interdisciplinary Training; Geriatric Training for Physicians, Dentists, and Behavioral and Mental Health Professionals; Graduate Psychology Education; and Preventive and Primary Care Training for Podiatric Physicians. Among these nominations, students, residents, and/or fellows from these programs are encouraged to apply.

HRSA has a special interest, and the legislation requires a fair balance between the health professions and members from urban and rural areas, a broad geographic distribution, and the adequate representation of women and minorities. HRSA encourages nominations of qualified candidates from these groups as well as individuals with disabilities.

To allow the Secretary to choose from a highly qualified list of potential candidates, more than one nomination is requested per open position. Interested persons may nominate one or more qualified persons for membership. Self-nominations are also accepted. Nominations must be typewritten. The following information should be included in the package of materials submitted for each individual being nominated for consideration: (1) A letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination (*i.e.,* specific attributes that qualify the nominee for service in this capacity), a statement that the nominee is willing to serve as a member of the Committee and appears to have no conflict of interest that would preclude the Committee membership—potential candidates will be asked to provide detailed information concerning such matters as financial holdings, consultancies, research grants, and/or contracts to permit an evaluation of possible sources of conflicts of interest; (2) the nominator's name, address, and daytime telephone number, and the home/or work address, telephone number, and e-mail address of the individual being nominated; and (3) a current copy of the nominee's curriculum vitae and a statement of interest from the nominee to support experience working with Title VII interdisciplinary, community-based training grant programs; expertise in the field; and personal desire in participating on a National Advisory Committee.

Members will receive a stipend for each official meeting day of the Committee, as well as per diem and travel expenses as authorized by section 5 U.S.C. 5703 for persons employed intermittently in Government service.

Appointments shall be made without discrimination on the basis of age, ethnicity, gender, sexual orientation, and cultural, religious, or socioeconomic status. Qualified candidates will be invited to serve a three-year term.

Dated: March 31, 2010.

Sahira Rafiullah,

Director, Division of Policy and Information Coordination.

[FR Doc. 2010–7933 Filed 4–7–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–1998–C–0045] (formerly Docket No. 1998C–0790)

EMD Chemicals, Inc.; Withdrawal of Color Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of the remaining portion of a color additive petition (CAP 8C0262) proposing an amendment of the color additive regulations to provide for the safe use of composite pigments prepared from synthetic iron oxide, mica, and titanium dioxide to color food.

FOR FURTHER INFORMATION CONTACT: Judith Kidwell, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 301–436–1071.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 25, 1998 (63 FR 51359), FDA announced that a color additive petition (CAP 8C0262) had been filed by EM Industries, Inc., 7 Skyline Dr., Hawthorne, NY 10532 (now EMD Chemicals, Inc.). The petition proposed to amend the color additive regulations in 21 CFR part 73 to provide for the safe use of synthetic iron oxide and mica to color food and to provide for the safe use of titanium dioxide to color food at levels higher than the current limit. At the time of filing of the petition, FDA considered the pigments that are the subjects of this petition to be color additive mixtures of synthetic iron oxide, mica, and titanium dioxide. After further review of the petition, the agency determined that these pigments are composite pigments, not color additive mixtures. Therefore, the agency published an amended filing notice in the **Federal Register** of June 21, 1999 (64 FR 33097), indicating that the petition proposed to amend the color additive regulations to provide for the safe use of composite pigments prepared from combinations of synthetic iron oxide, titanium dioxide, and mica to color food. FDA issued a partial response to the petition on June 2, 2006, permitting composite pigments prepared from mica and titanium dioxide to color cereals, confections and frostings, gelatin desserts, hard and soft candies, nutritional supplement tablets and gelatin capsules, and chewing gum (71 FR 31927). The remaining composite pigments containing synthetic iron oxide included in the petition remained under review. EMD Chemicals, Inc., has now withdrawn that remaining portion of the petition without prejudice to a future filing (21 CFR 71.6(c)(2)).

Dated: March 18, 2010.

Mitchell A. Cheeseman,

Acting Director, Office of Food Additive Safety, Center for Food Safety and Applied Nutrition.

[FR Doc. 2010–7956 Filed 4–7–10; 8:45 am]

BILLING CODE 4160–01–S

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Advisory Council on Historic Preservation (ACHP) will meet Friday, April 9, 2010. The meeting will be held in Room MO9 of the Old Post Office Building, 1100 Pennsylvania Ave., NW., Washington, DC at 9 a.m.

The ACHP was established by the National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*) to advise the President and Congress on national historic preservation policy and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The ACHP's members are the Architect of the Capitol; the Secretaries of the Interior, Agriculture, Defense, Housing and Urban Development, Commerce, Education, Veterans Affairs, and Transportation; the Administrator of the General Services Administration; the Chairman of the National Trust for Historic Preservation; the President of the National Conference of State Historic Preservation Officers; a Governor; a Mayor; a Native American; and eight non-Federal members appointed by the President.

The agenda for the meeting includes the following:

Call to Order—9 a.m.

I. Chairman's Welcome

II. Chairman's Award Presentation

III. Native American Activities

A. Native American Program Report

1. HUD Delegation of Tribal Consultation Responsibilities

B. Native American Advisory Group

IV. National Parks Second Century Commission Report: Recommendations for ACHP Action

V. Sustainability and Historic Preservation Task Force

VI. Preservation Initiatives Committee

A. America's Great Outdoors Initiative and Historic Preservation

B. Preserve America Program Update

VII. Federal Agency Programs Committee

A. Recovery Act Update

B. Historic Preservation and Energy Development Working Group

C. Archaeology Subcommittee

D. Cape Wind Section 106 Case Update

VIII. Communications, Education, and Outreach Committee

A. Engaging Youth in Historic Preservation

B. New Directions for ACHP Awards Programs

IX. Chairman's Report

X. Executive Director's Report

XII. Adjourn

Note: The meetings of the ACHP are open to the public.

If you need special accommodations due to a disability, please contact the Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., Room 803, Washington, DC, 202–606–8503, at least seven (7) days prior to the meeting. For further information: Additional information concerning the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., #803, Washington, DC 20004.

Dated: March 29, 2010.

John M. Fowler,

Executive Director.

[FR Doc. 2010–7643 Filed 4–7–10; 8:45 am]

BILLING CODE 4310–K6–M

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2008–0014]

Draft Programmatic Environmental Assessment for the Evaluation of the Grant Programs Directorate's Programs

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of availability and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) has prepared a draft Programmatic Environmental Assessment (PEA) to address the potential impacts to the human environment resulting from typical actions funded by FEMA's Grant Programs Directorate (GPD) through the wide variety of homeland security and emergency preparedness grant programs that it administers. These programs provide grant funding to States, Territories, and local and recognized Tribal governments to enhance their homeland security efforts. The grant monies provide for planning, conducting training and exercises, the purchase of equipment, and management and administration. The purpose of the PEA is to evaluate GPD programs and projects allowable under those programs, and to facilitate FEMA's compliance with the National Environmental Policy Act (NEPA) by providing a framework to address the potential environmental impacts of these projects.

FEMA is also making available for public comment a draft Memorandum of Understanding (MOU) between FEMA and the U.S. Fish and Wildlife Service (FWS) establishing procedures to monitor, assess, minimize and avoid avian mortalities from communication tower construction activities funded by FEMA. The MOU would be executed pursuant to Executive Order 13186—"Responsibilities of Federal Agencies to Protect Migratory Birds."

FEMA also provides notice to the public of the availability of a FEMA comment on a draft program comment from the Advisory Council on Historic Preservation (ACHP) regarding the effects of communication facilities construction or modification subject to review by the Federal Communications Commission (FCC). The ACHP draft program comment recommends that projects funded by the National Telecommunications and Information Administration and projects funded by the Rural Utilities Service be exempt from the review required under Section 106 of the National Historic Preservation Act (NHPA) by applicable FCC Programmatic Agreements if the projects have undergone, will undergo, or are exempt from Section 106 review by the FCC. FEMA seeks to add GPD projects to that proposed exemption.

DATES: Comments on the draft Programmatic Environmental Assessment and on the draft Memorandum of Understanding between FEMA and the U.S. Fish and Wildlife Service must be submitted on or before May 10, 2010.

ADDRESSES: You may submit comments, identified by Docket ID FEMA–2008–0014, by *one* of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Search for Docket ID FEMA–2008–0014 and follow the instructions for submitting comments.

E-mail: FEMA-POLICY@dhs.gov. Include Docket ID FEMA–2008–0014 in the subject line of the message.

Fax: 703–483–2999.

Mail/Hand Delivery/Courier: Office of Chief Counsel, Federal Emergency Management Agency, 500 C Street, SW., Room 835, Washington, DC 20472–3100.

Instructions: All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via a link in the footer of *http:/www.regulations.gov.*

Docket: For access to the docket to read the draft Programmatic Environmental Assessment, the draft Memorandum of Understanding between FEMA and the U.S. Fish and Wildlife Service, the FEMA comment on the draft program comment from the ACHP, or comments submitted by the public on these documents, go to the Federal eRulemaking Portal at *http://www.regulations.gov* and search for docket ID FEMA–2008–0014. These documents may also be inspected at FEMA, Office of Chief Counsel, Room 835, 500 C Street, SW., Washington, DC 20472–3100.

FOR FURTHER INFORMATION CONTACT: Jomar Maldonado, Environmental Officer, Office of Environmental Planning and Historic Preservation, FEMA, 500 C Street, SW., Washington, DC 20472–3100; phone (202) 646–2741; or Adria Martínez, Program Manager, GPD, FEMA, 500 C Street, SW., Techworld Bldg., Room 5142 Washington, DC 20472–3100; phone (202) 786–9603.

SUPPLEMENTARY INFORMATION:

Draft Programmatic Environmental Assessment for the Evaluation of the Grant Programs Directorate's Programs

The purpose of the draft Programmatic Environmental Assessment (PEA) is to evaluate the programs of the Grant Programs Directorate (GPD) and the projects allowable under these programs and facilitate FEMA's compliance with the National Environmental Policy Act (NEPA) by providing a framework to address the potential environmental impacts of those projects.

The PEA also provides the public and decision-makers with the information required to understand and evaluate the potential environmental consequences of actions funded by FEMA. In addition to meeting the goals of impact identification and disclosure, the PEA addresses the need to streamline the NEPA review process in the interest of national preparedness and homeland security.

The analysis presented in the PEA relies on FEMA's experience regarding environmental impacts that can be expected with actions that would be funded under GPD grant programs. It is also based on a review of scientific literature, consultation with regulatory and resource agencies, and expert opinion. FEMA will consider the analysis in the PEA to determine whether a Finding of No Significant Impact (FONSI) or a Notice of Intent to Prepare an Environmental Impact Statement is appropriate for the proposed actions described and assessed in the PEA.

FEMA will use the PEA to evaluate the environmental impacts of GPD grant programs and the projects funded by these programs. The PEA will also assist in determining when more site-specific information is needed and what level of environmental analysis and documentation is required in order for more complex projects to comply with NEPA.

Draft Memorandum of Understanding Between FEMA and the U.S. Fish and Wildlife Service

The purpose of the Memorandum of Understanding (MOU) is to establish procedures to be utilized by FEMA and the U.S. Fish and Wildlife Service (FWS) to monitor, assess, minimize and avoid avian mortalities from FEMA-sponsored telecommunication towers. Migratory birds are of great ecological and economic value to this country and to other countries. The United States has recognized the critical importance of this shared resource by ratifying international, bilateral conventions for the conservation of migratory birds. Under Executive Order (E.O.) 13186—"Responsibilities of Federal Agencies to Protect Migratory Birds," Federal agencies are encouraged to negotiate MOUs with the FWS to promote the conservation of migratory birds for taking actions, such as development and implementation of programs, that have or are likely to have a measurable negative effect on migratory bird populations.

Avian mortality due to collisions with telecommunication towers is a well documented phenomenon that has prompted significant debate and litigation in the United States. GPD programs can be used to fund the modification or new construction of towers. As a result, FEMA is exercising its authorities and responsibilities under E.O. 13186, as well as related laws such as NEPA, the Migratory Bird Treaty Act, the Endangered Species Act, E.O. 11988—"Floodplain Management," and E.O. 11990—"Protection of Wetlands," to establish this framework.

FEMA Comment on a Draft Program Comment From the Advisory Council on Historic Preservation

On September 17, 2009, the Advisory Council on Historic Preservation (ACHP) published a notice for comment on its Draft Program Comment for the National Telecommunications and Information Administration and the U.S. Department of Agriculture's Rural Utilities Service Regarding the Effects of Communication Facilities Construction or Modification Subject to Review by the Federal Communications Commission (74 FR 47807). The draft program comment requests the elimination of duplicative National Historic Preservation Act (NHPA) Section 106 reviews for tower construction and modification projects sponsored by the Rural Utilities Service (RUS) and the National Telecommunications and Information Administration (NTIA) that have undergone, will undergo, or are exempt from Section 106 review under Federal Communication Commission (FCC) historic preservation procedures, which are governed by applicable FCC Programmatic Agreements.

FEMA believes that the ACHP draft program comment should be extended to grant-funded construction and modifications of telecommunication towers sponsored by FEMA. Among the eligible activities funded by GPD and critical to the Nation's readiness are the installation of new, or modification of existing, telecommunication towers and collocation of antennas on existing towers or non-tower structures to ensure interoperable communication between first responders during disasters or emergency events. FEMA believes that when grantees must satisfy the Section 106 review for both FEMA and FCC purposes, and the FCC requirements have been fulfilled for the project before the project is submitted to FEMA, a redundant level of effort is created that places an undue administrative burden upon grantees and State Historic Preservation Officers/Tribal Historic Preservation Officers (SHPOs/THPOs). This results in an unnecessary delay in the delivery of funds to the grantee for homeland security/emergency preparedness initiatives, and provides no additional value to the consideration of historic properties in keeping with the spirit and intent of Section 106. As a result, FEMA is providing comments to the ACHP to request the inclusion of

FEMA's comment in the ACHP draft program comment.

Authority: National Environmental Policy Act (NEPA), as amended, 42 U.S.C. 4331 *et seq.;* 40 CFR 1500.1 *et seq.;* 44 CFR 10.1 *et seq.*

Dated: April 1, 2010.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–8006 Filed 4–7–10; 8:45 am]

BILLING CODE 9111–78–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5376–N–24]

Public Housing Contracting With Resident-Owned Businesses/ Application Requirements

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.

Public Housing Agencies (PHAs) enter into contracts, not to cumulatively exceed $1,000,000, with eligible resident-owned businesses under an alternative procurement process. As such, PHAs are required to obtain documentation to verify the eligibility of the resident-owned business and to collect other information related to the contract award itself under the Department's procurement requirements.

DATES: *Comments Due Date: May 10, 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 (2577–0161) 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: Public Housing Contracting With Resident-Owned Businesses/Application Requirements.

OMB Approval Number: 2577–0161.

Form Numbers: This information collection does not apply to form(s).

Description of the Need for the Information and Its Proposed Use: Public Housing Agencies (PHAs) enter into contracts, not to cumulatively exceed $1,000,000, with eligible resident-owned businesses under an alternative procurement process. As such, PHAs are required to obtain documentation to verify the eligibility of the resident-owned business and to collect other information related to the contract award itself under the Department's procurement requirements.

Frequency of Submission: On occasion, Other Per applicant.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	82	1		24		1,968

Total Estimated Burden Hours: 1,968.

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: April 2, 2010.

Leroy McKinney, Jr.,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2010–8007 Filed 4–7–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5382–N–05]

Notice of Proposed Information Collection for Public Comment on the Quality Control for Rental Assistance Subsidy Determinations

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

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

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8234, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Dr. Yves Djoko, Economic Development and Public Finance Division, Department of Housing and Urban Development, 451 7th Street, SW., Room 8216, Washington, DC 20410; telephone 202–402–5851 (not a toll-free number). Copies of the proposed forms and other

available documents submitted to OMB may be obtained from Dr. Djoko.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended). The Department is required by the Improper Payments Act of 2002 to submit annual reports on improper payments associated with its assisted housing programs. The information must meet statistical accuracy tests and requires on-site file reviews and tenant interviews that cannot be accomplished with remote monitoring or HUD data systems. This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including if 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 that will reduce respondent burden (*e.g.,* permitting electronic submission of responses).

Title of Proposal: Quality Control for Rental Assistance Subsidy Determinations.

Description of the need for the information and proposed use: The Department is conducting under contract a study to update its estimates of the extent and type of errors associated with income, rent, and subsidy determinations for the 4.3 million households covered by the Public Housing and Section 8 housing subsidies. The Quality Control process involves selecting a nationally representative sample of assisted households to measure the extent and types of errors in rent and income determinations, which in turn cause subsidy errors. On-site tenant interviews, file reviews, third-party income verifications, and income matching with other Federal data are conducted. The data obtained are used to identify the most serious problems and their associated costs. HUD program officers are then responsible for designing and implementing corrective actions. In addition to providing current estimates of error, results will be compared with those from previous years' studies. These comparisons will indicate whether corrective actions initiated since the 2000 study have been effective and if changes in priorities are needed.

The first QC study was completed in 1996 and found that about one-half of the errors measured using on-site tenant interviews and file reviews could not be detected with the 50058/50059 from data collected by the Department, which is why HUD and other agencies with means-tested programs have determined that on-site reviews and interviews are an essential complement to remote monitoring measures. The 2000 study showed that the calculation errors detectable with 50058/50059 data had decreased, probably because this information was increasingly subject to automated computational checks. HUD has initiated a program of corrective actions and increased monitoring since 2000 and recent studies of tenant certification and recertification actions showed significant error reductions in income and rent determinations.

Future studies are planned on an annual basis, as required by legislation. Program monitoring and income matching policies being implemented may eliminate the need for an independent, statistically valid measure of program errors provided by the current study design, but such procedures have yet to be fully implemented and evaluated. The Improper Payments Act of 2002 requires that the Department report on the error measurements annually. This proposed data collection approval request is for studies to be conducted in 2011, 2012, 2013 and 2014 of prior year certification and recertification actions. These studies will provide current information on the quality of tenant interviews (*e.g.,* whether they are being asked about all sources of income) and the reliability of eligibility determinations and income verification.

Members of affected public: Recipients of Public Housing and Section 8 Housing Assistance subsidies.

Estimation of the total number of hours needed to prepare the information collection, including the number of respondents, frequency of response, and hours of response: For each study, approximately 600 PHA/program sponsor staff will need to be asked about recertification procedures, training, interview procedures, and problems encountered in conducting (re)certifications. Although more than one staff member may need to be contacted to obtain answers to all questions, the questionnaire will be administered once at each participating project and the total interview times are expected to be less than 40 minutes per PHA or project. Researchers will survey approximately 2,400 program participants to obtain information on household composition, expenses, and income. The time required for these interviews will vary, but is estimated to require an average of about 50 minutes per interview.

The time estimates provided are based on the 2009 QC survey. The proposed surveys will continue to make use of Computer Assisted Interviewing (CAI) questionnaires and equipment, which are being used in part because they reduce interview times. The software also provides for consistency check and ensures that all needed data have been collected, thereby reducing the need for the follow-up contacts. Status of the Proposed Information Collection: Pending OMB approval.

Status of the proposed information collection: Pending OMB approval.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 1, 2010.

Raphael W. Bostic,

Assistant Secretary for Policy Development and Research, R.

[FR Doc. 2010–8027 Filed 4–7–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5382–N–06]

Notice of Proposed Information Collection for Public Comment: Section 8 Random Digit Dialing Fair Market Rent Telephone Survey

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal. Reinstatement of the collection effort that expired on April 1, 2010 is being requested.

DATES: *Comments Due Date:* June 7, 2010.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department

of Housing and Urban Development, 451 7th Street, SW., Room 8234, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Marie Lihn, Economic and Market Analysis Division, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8224, Washington, DC 20410; telephone (202) 402–5866; e-mail *marie_l._lihn@hud.gov.* This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Lihn.

SUPPLEMENTARY INFORMATION: The Department of Housing and Urban Development will submit the proposed information collection package to OMB for review as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection 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 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: Section 8 Random Digit Dialing Fair Market Rent Telephone Survey.

OMB Control Number: 2528–0142.

Description of the need for the information and proposed use: This provides HUD with a relatively fast and accurate way to estimate and update Section 8 Fair Market Rents (FMRs) in areas where FMRs are believed to be incorrect and data from the American Community Survey is not available at the local level. Section 8(C)(1) of the United States Housing Act of 1937 requires the Secretary to publish Fair Market Rents (FMRs) annually to be effective on October 1 of each year. FMRs are used for the Section 8 Rental Certificate Program (including space rentals by owners of manufactured homes under that program); the Moderate Rehabilitation Single Room Occupancy program; housing assisted under the Loan Management and Property Disposition programs; payment standards for the Rental Voucher program; and any other programs whose regulations specify their use.

Random digit dialing (RDD) telephone surveys have been used for many years to adjust FMRs. These surveys are based on a sampling procedure that uses computers to select statistically random samples of telephone numbers to locate certain types of rental housing units for surveying. HUD will conduct RDD surveys of up to 20 individual FMR areas in a year to test the accuracy of their FMRs.

Members of affected public: Individuals or households living in areas surveyed.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Area surveys	Number of phone calls made	Average minutes each	Minutes	Hours
Number who pick up phone but are screened out	12,343	1.74	21,961	366
Total interviewed (movers and stayers)	3,429	5.26	17,750	296
Annual Total	15,772		39,711	662

Status of the proposed information collection: Pending OMB approval.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended; and Section 8(C)(1) of the United States Housing Act of 1937.

Dated: April 1, 2010.

Raphael W. Bostic,

Assistant Secretary for Policy Development & Research.

[FR Doc. 2010–8024 Filed 4–7–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5411–N–01]

Credit Watch Termination Initiative

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

ACTION: Notice.

SUMMARY: This notice advises of the cause and effect of termination of Origination Approval Agreements taken by HUD's Federal Housing Administration (FHA) against HUD-approved mortgagees through the FHA Credit Watch Termination Initiative. This notice includes a list of mortgagees which have had their Origination Approval Agreements terminated.

FOR FURTHER INFORMATION CONTACT: The Quality Assurance Division, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room B133–P3214, Washington, DC 20410–8000; telephone (202) 708–2830 (this is not a toll free number). Persons with hearing or speech impairments may access that number through TTY by calling the Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: HUD has the authority to address deficiencies in the performance of lenders' loans as provided in HUD's mortgagee approval regulations at 24 CFR 202.3. On May 17, 1999 HUD published a notice (64 FR 26769), on its procedures for terminating Origination Approval Agreements with FHA lenders and placement of FHA lenders on Credit Watch status (an evaluation period). In the May 17, 1999 notice, HUD advised that it would publish in the **Federal Register** a list of mortgagees, which have had their Origination Approval Agreements terminated.

Termination of Origination Approval Agreement: Approval of a mortgagee by HUD/FHA to participate in FHA mortgage insurance programs includes an Origination Approval Agreement (Agreement) between HUD and the mortgagee. Under the Agreement, the mortgagee is authorized to originate single-family mortgage loans and submit them to FHA for insurance endorsement. The Agreement may be terminated on the basis of poor performance of FHA-insured mortgage loans originated by the mortgagee. The termination of a mortgagee's Agreement is separate and apart from any action taken by HUD's Mortgagee Review

Board under HUD's regulations at 24 CFR part 25.

Cause: HUD's regulations permit HUD to terminate the Agreement with any mortgagee having a default and claim rate for loans endorsed within the preceding 24 months that exceeds 200 percent of the default and claim rate within the geographic area served by a HUD field office, and also exceeds the national default and claim rate. For the 41st review period, HUD is terminating the Agreement of mortgagees whose default and claim rate exceeds both the national rate and 200 percent of the field office rate.

Effect: Termination of the Agreement precludes that branch(s) of the mortgagee from originating FHA-insured single-family mortgages within the area of the HUD field office(s) listed in this notice. Mortgagees authorized to purchase, hold, or service FHA insured mortgages may continue to do so.

Loans that closed or were approved before the termination became effective may be submitted for insurance endorsement. Approved loans are (1) those already underwritten and approved by a Direct Endorsement (DE) underwriter employed by an unconditionally approved DE lender and (2) cases covered by a firm commitment issued by HUD. Cases at earlier stages of processing cannot be submitted for insurance by the terminated branch; however, they may be transferred for completion of processing and underwriting to another mortgagee or branch authorized to originate FHA insured mortgages in that area. Mortgagees are obligated to continue to pay existing insurance premiums and meet all other obligations associated with insured mortgages.

A terminated mortgagee may apply for a new Origination Approval Agreement if the mortgagee continues to be an approved mortgagee meeting the requirements of 24 CFR 202.5, 202.6, 202.7, 202.8 or 202.10 and 202.12, if there has been no Origination Approval Agreement for at least six months, and if the Secretary determines that the underlying causes for termination have been remedied. To enable the Secretary to ascertain whether the underlying causes for termination have been remedied, a mortgagee applying for a new Origination Approval Agreement must obtain an independent review of the terminated office's operations as well as its mortgage production, specifically including the FHA-insured mortgages cited in its termination notice. This independent analysis shall identify the underlying cause for the mortgagee's high default and claim rate. The review must be conducted and issued by an independent Certified Public Accountant (CPA) qualified to perform audits under Government Auditing Standards as provided by the Government Accountability Office. The mortgagee must also submit a written corrective action plan to address each of the issues identified in the CPA's report, along with evidence that the plan has been implemented. The application for a new Agreement should be in the form of a letter, accompanied by the CPA's report and corrective action plan. The request should be sent to the Director, Office of Lender Activities and Program Compliance, 451 Seventh Street, SW., Room B133–P3214, Washington, DC 20410–8000 or by courier to 490 L'Enfant Plaza, East, SW., Suite 3214, Washington, DC 20024–8000.

Action: The following mortgagees have had their Agreements terminated by HUD:

Mortgagee name	Mortgagee branch address	HUD office jurisdictions	Termination effective date	Homeownership centers
1st Continental Mortgage, Inc	2691 E. Oakland Park Blvd, Suite 203, Fort Lauderdale, FL 33306.	Columbia	1/29/2010	Atlanta.
1st Continental Mortgage, Inc	2691 E. Oakland Park Blvd, Suite 203, Fort Lauderdale, FL 33306.	Greensboro	1/29/2010	Atlanta.
AAA Worldwide Financial Company	5057 Keller Springs Rd., Addison, TX 75001.	San Antonio	11/4/2009	Denver.
Acclaim Mortgage	2200 S. Valley Highway, Suite A, Denver, CO 80222.	Denver	1/29/2010	Denver.
Ace Mortgage Funding, LLC	7820 Innovation Blvd., Suite 300, Indianapolis, IN 46278.	Indianapolis	11/4/2009	Atlanta.
Ace Mortgage Funding, LLC	7820 Innovation Blvd., Suite 300, Indianapolis, IN 46278.	Tampa	11/4/2009	Atlanta.
Ace Mortgage Funding, LLC	7820 Innovation Blvd., Suite 300, Indianapolis, IN 46278.	Denver	11/4/2009	Denver.
Ace Mortgage Funding, LLC	7820 Innovation Blvd., Suite 300, Indianapolis, IN 46278.	Minneapolis	11/4/2009	Denver.
Ace Mortgage Funding, LLC	7820 Innovation Blvd., Suite 300, Indianapolis, IN 46278.	Las Vegas	11/4/2009	Santa Ana.
Allen Mortgage Company, LLC	1675 S. Berry Knoll Blvd., Centennial Park, AZ 86021.	Dallas	1/29/2010	Denver.
American Eagle Mortgage Corporation	6145 Park Sq., Suite 4, Lorain, OH 44053.	Columbus	1/29/2010	Atlanta.
Bergin Financial, Inc.	29200 North Western Hwy, Suite 350, Southfield, MI 48034.	Chicago	11/4/2009	Atlanta.
Bergin Financial, Inc.	29200 North Western Hwy, Suite 350, Southfield, MI 48034.	Indianapolis	11/4/2009	Atlanta.
Cash Fast Finance, LLC	2800 North 44th Street, Suite 1100, Phoenix, AZ 85008.	Phoenix	11/4/2009	Santa Ana.
First Mortgage Corporation	3230 Fallow Field Drive, Diamond Bar, CA 91765.	Santa Ana	11/4/2009	Santa Ana.
Freedom Plus Mortgage Corporation	43053 Margarita Road, Suite B108, Temecula, CA 92452.	Santa Ana	1/29/2010	Santa Ana.
Homebridge Mortgage Bankers	60 Oak Drive, Syosset, NY 11791	Washington, DC	11/4/2009	Philadelphia.
J and C Investment Properties Corp.	4907 NW 43rd St., Suite D, Gainesville, FL 32606.	Greensboro	1/29/2010	Atlanta.
Lendamerica Home Loans, Inc.	2121 Ponce De Leon Blvd., Suite 10, Coral Gables, FL 33134.	Miami	1/29/2010	Atlanta.

Mortgagee name	Mortgagee branch address	HUD office jurisdictions	Termination effective date	Homeownership centers
Loan Network, LLC	1600 Lind Ave. SW, Suite 180, Renton, WA 98057.	Seattle	1/29/2010	Santa Ana.
Paramount Mortgage, Inc	2216 Forest Park Blvd., Fort Worth, TX 76110.	Fort Worth	1/29/2010	Denver.
Residential Loan Centers of America	2700 S. River Road, Suite 400, Des Plaines, IL 60018.	Jacksonville	11/4/2009	Atlanta.
Residential Loan Centers of America	2700 S. River Road, Suite 400, Des Plaines, IL 60018.	Tampa	11/4/2009	Atlanta.
State Lending Corporation	9835 Sunset Drive, Suite 108, Miami, FL 33173.	Miami	11/4/2009	Atlanta.

Dated: April 1, 2010.

David H. Stevens,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2010–8029 Filed 4–7–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5376–N–25]

Family Report, MTW Family Report

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.

Tenant data is collected to understand demographic, family profile, income, and housing information for participants in the Public Housing, Section 8 Housing choice Voucher, Section 8 Project, Based Certificate, Section 8 Moderate Rehabilitation, and Moving to Work Demonstration programs. This data also allows HUD to monitor the performance of programs and the performance of public housing agencies that administer the programs.

DATES: *Comments Due Date:* May 10, 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 (2577–0083) 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: Family Report, MTW Family Report.

OMB Approval Number: 2577–0083.

Form Numbers: HUD–50058 Family Report, HUD–50058 MTW Family Report.

Description of the Need for the Information and Its Proposed Use: Tenant data is collected to understand demographic, family profile, income, and housing information for participants in the Public Housing, Section 8 Housing choice Voucher, Section 8 Project, Based Certificate, Section 8 Moderate Rehabilitation, and Moving to Work Demonstration programs. This data also allows HUD to monitor the performance of programs and the performance of public housing agencies that administer the programs.

Frequency of Submission: Quarterly, Monthly, Annually.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	4139	0.693		0.376		1,079.075

Total Estimated Burden Hours: 1,079.075.

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: *April 2, 2010.*

Leroy McKinney, Jr.,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2010–8017 Filed 4–7–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Proposed Information Collection for 1029–0089

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing that the information collection request for 30 CFR part 702, Exemption for Coal Extraction Incidental to the Extraction of Other Minerals, has been submitted to the Office of Management and Budget (OMB) for review and approval. The information collection request describes the nature of the information collection and its expected burden and cost.

DATES: Comments must be submitted on or before May 10, 2010, to be assured of consideration.

ADDRESSES: Comments may be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Department of the Interior Desk Officer, via e-mail at *OIRA_Docket@omb.eop.gov,* or by facsimile to (202) 395–5806. Also, please send a copy of your comments to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Room 202—SIB, Washington, DC 20240, or electronically to *jtrelease@osmre.gov.* Please reference 1029–0089 in your correspondence.

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request, contact John Trelease at (202) 208–2783. You may also contact Mr. Trelease by e-mail at *jtrelease@osmre.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. OSM has submitted a request to OMB to renew its approval for the collection of information found at 30 CFR part 702, Exemption for Coal Extraction Incidental to the Extraction of Other Minerals.

OSM is requesting a 3-year term of approval for this collection. This collection is required to obtain or retain a benefit.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information is 1029–0089 and is displayed at 30 CFR 702.10.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on this collection of information was published on December 17, 2009 (74 FR 66989). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: 30 CFR part 702—Exemption for Coal Extraction Incidental to the Extraction of Other Minerals.

OMB Control Number: 1029–0089.

Summary: This part implements the requirement in Section 701 (28) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), which grants an exemption from the requirements of SMCPA to operators extracting not more than 16⅔ percentage tonnage of coal incidental to the extraction of other minerals. This information will be used by the regulatory authorities to make that determination.

Bureau Form Number: None.

Frequency of Collection: Once and annually thereafter.

Description of Respondents: Producers of coal and other minerals, and State regulatory authorities.

Total Annual Responses: 120.

Total Annual Burden Hours: 586.

Total Non-wage Costs: $1,200.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information, to the offices listed in the Addresses section. Please refer to the appropriate OMB control number in all correspondence.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment-including your personal identifying information-may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: March 31, 2010.

John R. Craynon,

Chief, Division of Regulatory Support.

[FR Doc. 2010–7750 Filed 4–7–10; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2010–N030; 10120–1113–0000–C4]

Endangered and Threatened Wildlife and Plants; 5-Year Status Reviews of 69 Species in Idaho, Washington, Hawaii, Guam, and the Commonwealth of the Northern Mariana Islands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of initiation of review/reviews; request for information.

SUMMARY: We, the U.S. Fish and Wildlife Service, are initiating 5-year reviews for 69 species in Idaho, Washington, Hawaii, Guam, and the Commonwealth of the Northern Mariana Islands under the Endangered Species Act of 1973, as amended (Act). We request any new information on these species that may have a bearing on their classification as endangered or threatened. Based on the results of our 5-year reviews we will determine whether these species are properly classified under the Act.

DATES: To ensure consideration in our reviews, we are requesting submission of new information no later than June 7, 2010. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: For the 66 species under review in Hawaii, Guam, and the Commonwealth of the Northern Mariana Islands (*see* Table 1 below), submit information to: Field Supervisor, Attention: 5-Year Review, U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Blvd., Room 3–122, Box 50088, Honolulu, HI 96850. Information can also be submitted by e-mail to: *pifwo-5yr-review@fws.gov.*

For the Kootenai River white sturgeon and northern Idaho ground squirrel, submit information to: State Supervisor, Attention: 5-Year Review, U.S. Fish and Wildlife Service, Idaho Fish and Wildlife Office, 1387 S. Vinnell Way, Room 368, Boise, ID 83709. Information can also be submitted by e-mail to: *FW1SRBOcomment@fws.gov.*

For the Columbia Basin pygmy rabbit, submit information to: Field Supervisor, Attention: 5-Year Review, U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office, 510 Desmond Dr. SE., Suite 102, Lacey, WA 98503. Information can also be submitted by e-mail to: *FW1CBPRabbit@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Marilet Zablan, U.S. Fish and Wildlife

Service, Pacific Islands Fish and Wildlife Office (*see* **ADDRESSES**), 808–792–9400 (for species in Hawaii, Guam, and the Commonwealth of the Northern Mariana Islands); Steve Duke, U.S. Fish and Wildlife Service, Idaho Fish and Wildlife Office, 208–378–5243 (for Kootenai River white sturgeon and northern Idaho ground squirrel); or Jodi Bush, U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office, 360–753–9440 (for Columbia Basin pygmy rabbit). Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at (800) 877–8337 for TTY assistance.

SUPPLEMENTARY INFORMATION:

I. Why Do We Conduct 5-Year Reviews?

Under the Act (16 U.S.C. 1531 *et seq.*), we maintain Lists of Endangered and Threatened Wildlife and Plants (which we collectively refer to as the List) in the Code of Federal Regulations (CFR) at 50 CFR 17.11 (for animals) and 17.12 (for plants). Section 4(c)(2)(A) of the Act requires us to review each listed species' status at least once every 5 years. Then, under section 4(c)(2)(B), we determine whether to remove any species from the List (delist), to reclassify it from endangered to threatened, or to reclassify it from threatened to endangered, or to conclude that the current listing is appropriate. Any change in Federal classification requires a separate rulemaking process.

We use the following definitions, from 50 CFR 424.02, in our analysis of classification status:

(A) *Species* includes any species or subspecies of fish, wildlife, or plant, and any distinct population segment of any species of vertebrate, that interbreeds when mature;

(B) *Endangered species* means any species that is in danger of extinction throughout all or a significant portion of its range; and

(C) *Threatened species* means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

We must support a delisting action with the best scientific and commercial data available, and only consider delisting if data substantiate that the species is neither endangered nor threatened for one or more of the following reasons (50 CFR 424.11(d)):

(A) The species is considered extinct;

(B) The species is considered to be recovered; or

(C) The original data available when the species was listed, or the interpretation of data, were in error.

Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing the species we are reviewing.

II. What Species Are Under Review?

This notice announces our active review of the 69 species listed in Table 1.

TABLE 1—SPECIES FOR WHICH WE ARE INITIATING A STATUS REVIEW TO DETERMINE IF THEY ARE APPROPRIATELY LISTED UNDER THE U.S. ENDANGERED SPECIES ACT

Common name	Scientific name	Status	Where listed	Final listing rule
ANIMALS				
Pomace fly, [Unnamed]	*Drosophila aglaia*	E	U.S.A. (HI)	71 FR 26835; 5/9/2006.
Pomace fly, [Unnamed]	*Drosophila differens*	E	U.S.A. (HI)	71 FR 26835; 5/9/2006.
Pomace fly, [Unnamed]	*Drosophila hemipeza*	E	U.S.A. (HI)	71 FR 26835; 5/9/2006.
Pomace fly, [Unnamed]	*Drosophila heteroneura*	E	U.S.A. (HI)	71 FR 26835; 5/9/2006.
Pomace fly, [Unnamed]	*Drosophila montgomeryi*	E	U.S.A. (HI)	71 FR 26835; 5/9/2006.
Pomace fly, [Unnamed]	*Drosophila mulli*	T	U.S.A. (HI)	71 FR 26835; 5/9/2006.
Pomace fly, [Unnamed]	*Drosophila musaphila*	E	U.S.A. (HI)	71 FR 26835; 5/9/2006.
Pomace fly, [Unnamed]	*Drosophila neoclavisetae*	E	U.S.A. (HI)	71 FR 26835; 5/9/2006.
Pomace fly, [Unnamed]	*Drosophila obatai*	E	U.S.A. (HI)	71 FR 26835; 5/9/2006.
Pomace fly, [Unnamed]	*Drosophila ochrobasis*	E	U.S.A. (HI)	71 FR 26835; 5/9/2006.
Pomace fly, [Unnamed]	*Drosophila substenoptera*	E	U.S.A. (HI)	71 FR 26835; 5/9/2006.
Pomace fly, [Unnamed]	*Drosophila tarphytrichia*	E	U.S.A. (HI)	71 FR 26835; 5/9/2006.
Rabbit, Pygmy	*Brachylagus idahoensis*	E	U.S.A. (WA—Douglas, Grant, Lincoln, Adams, Benton Counties).	66 FR 59734; 11/30/2001.
Squirrel, Northern Idaho Ground.	*Spermophilus brunneus brunneus.*	T	U.S.A. (ID)	65 FR 17779; 4/5/2000.
Sturgeon, White	*Acipenser transmontanus*	E	U.S.A. (ID, MT), Canada (B.C.) (Kootenai R. system).	59 FR 45989; 9/6/1994.
PLANTS				
No common name	*Alsinidendron obovatum*	E	U.S.A. (HI)	56 FR 55770; 10/29/1991.
No common name	*Amaranthus brownii*	E	U.S.A. (HI)	61 FR 43178; 8/21/1996.
ʻAhinahina	*Argyroxiphium sandwicense* ssp. *sandwicense.*	E	U.S.A. (HI)	51 FR 9814; 3/21/1986.
No common name	*Asplenium fragile insulare*	E	U.S.A. (HI)	59 FR 49025; 9/26/1994.
ʻAkoko	*Chamaesyce celastroides* var. *kaenana.*	E	U.S.A. (HI)	56 FR 55770; 10/29/1991.
ʻAkoko	*Chamaesyce deppeana*	E	U.S.A. (HI)	59 FR 14482; 3/28/1994.
ʻAkoko	*Chamaesyce herbstii*	E	U.S.A. (HI)	61 FR 53089; 10/10/1996.
ʻAkoko, Ewa Plains	*Chamaesyce skottsbergii* var. *kalaeloana.*	E	U.S.A. (HI)	47 FR 36846; 8/24/1982.
ʻOha wai	*Clermontia drepanomorpha*	E	U.S.A. (HI)	61 FR 53089; 10/10/1996.
ʻOha wai	*Clermontia pyrularia*	E	U.S.A. (HI)	59 FR 10305; 3/4/1994.
Haha	*Cyanea copelandii* ssp. *copelandii.*	E	U.S.A. (HI)	59 FR 10305; 3/4/1994.
Haha	*Cyanea grimesiana* ssp. *obatae.*	E	U.S.A. (HI)	59 FR 32932; 6/27/1994.

TABLE 1—SPECIES FOR WHICH WE ARE INITIATING A STATUS REVIEW TO DETERMINE IF THEY ARE APPROPRIATELY LISTED UNDER THE U.S. ENDANGERED SPECIES ACT—Continued

Common name	Scientific name	Status	Where listed	Final listing rule
Haha	*Cyanea pinnatifida*	E	U.S.A. (HI)	56 FR 55770; 10/29/1991.
Haha	*Cyanea platyphylla*	E	U.S.A. (HI)	61 FR 53089; 10/10/1996.
Haha	*Cyanea st.-johnii*	E	U.S.A. (HI)	61 FR 53089; 10/10/1996.
Haha	*Cyanea stictophylla*	E	U.S.A. (HI)	59 FR 10305; 3/4/1994.
Haha	*Cyanea superba*	E	U.S.A. (HI)	56 FR 46235; 9/11/1991.
Haha	*Cyanea truncata*	E	U.S.A. (HI)	59 FR 14482; 3/28/1994.
Haʻiwale	*Cyrtandra dentata*	E	U.S.A. (HI)	61 FR 53089; 10/10/1996.
Haʻiwale	*Cyrtandra giffardii*	E	U.S.A. (HI)	59 FR 10305; 3/4/1994.
Haʻiwale	*Cyrtandra tintinnabula*	E	U.S.A. (HI)	59 FR 10305; 3/4/1994.
No common name	*Delissea undulata*	E	U.S.A. (HI)	61 FR 53089; 10/10/1996.
No common name	*Gahnia lanaiensis*	E	U.S.A. (HI)	56 FR 47686; 9/20/1991.
No common name	*Gouania vitifolia*	E	U.S.A. (HI)	59 FR 32932; 6/27/1994.
No common name	*Hedyotis degeneri*	E	U.S.A. (HI)	56 FR 55770; 10/29/1991.
Pilo	*Hedyotis mannii*	E	U.S.A. (HI)	57 FR 46325; 10/8/1992.
Hau kuahiwi	*Hibiscadelphus woodii*	E	U.S.A. (HI)	61 FR 53089; 10/10/1996.
Aupaka	*Isodendrion hosakae*	E	U.S.A. (HI)	56 FR 1454; 1/14/1991.
Kamakahala	*Labordia tinifolia* var. *lanaiensis*.	E	U.S.A. (HI)	64 FR 48307; 9/3/1999.
Nehe	*Lipochaeta micrantha*	E	U.S.A. (HI)	59 FR 9304; 2/25/1994.
No common name	*Lipochaeta venosa*	E	U.S.A. (HI)	44 FR 62468; 10/30/1979.
No common name	*Mariscus fauriei*	E	U.S.A. (HI)	59 FR 10305; 3/4/1994.
Alani	*Melicope munroi*	E	U.S.A. (HI)	64 FR 48307; 9/3/1999.
No common name	*Neraudia sericea*	E	U.S.A. (HI)	59 FR 56333; 11/10/1994.
No common name	*Nesogenes rotensis*	E	Western Pacific Ocean: U.S.A. (Commonwealth of the Northern Mariana Islands).	69 FR 18499; 4/8/2004.
ʻAiea	*Nothocestrum breviflorum*	E	U.S.A. (HI)	59 FR 10305; 3/4/1994.
Holei	*Ochrosia kilaueaensis*	E	U.S.A. (HI)	59 FR 10305; 3/4/1994.
No common name	*Osmoxylon mariannense*	E	Western Pacific Ocean: U.S.A. (Commonwealth of the Northern Mariana Islands).	69 FR 18499; 4/8/2004.
Makou	*Peucedanum sandwicense*	T	U.S.A. (HI)	59 FR 9304; 2/25/1994.
No common name	*Phyllostegia glabra* var. *lanaiensis*.	E	U.S.A. (HI)	56 FR 47686; 9/20/1991.
Kiponapona	*Phyllostegia racemosa*	E	U.S.A. (HI)	61 FR 53089; 10/10/1996.
No common name	*Phyllostegia velutina*	E	U.S.A. (HI)	61 FR 53089; 10/10/1996.
No common name	*Phyllostegia warshaueri*	E	U.S.A. (HI)	61 FR 53089; 10/10/1996.
Kuahiwi laukahi	*Plantago hawaiiensis*	E	U.S.A. (HI)	59 FR 10305; 3/4/1994.
Hala pepe	*Pleomele hawaiiensis*	E	U.S.A. (HI)	61 FR 53089; 10/10/1996.
Poʻe	*Portulaca sclerocarpa*	E	U.S.A. (HI)	59 FR 10305; 3/4/1994.
Loʻulu	*Pritchardia affinis*	E	U.S.A. (HI)	59 FR 10305; 3/4/1994.
Lagu, Hayun	*Serianthes nelsonii*	E	Western Pacific Ocean: U.S.A. (Guam, Rota).	52 FR 4907; 2/18/1987.
ʻAnunu	*Sicyos alba*	E	U.S.A. (HI)	61 FR 53089; 10/10/1996.
No common name	*Stenogyne angustifolia* var. *angustifolia*.	E	U.S.A. (HI)	44 FR 62468; 10/30/1979.
No common name	*Tetramolopium arenarium*	E	U.S.A. (HI)	59 FR 10305; 3/4/1994.
Pamakani	*Tetramolopium capillare*	E	U.S.A. (HI)	59 FR 49860; 9/30/1994.
Vetch, Hawaiian	*Vicia menziesii*	E	U.S.A. (HI)	43 FR 17910; 4/26/1978.
No common name	*Viola lanaiensis*	E	U.S.A. (HI)	56 FR 47686; 9/20/1991.

III. What Information Do We Consider in the Review?

A 5-year review considers all new information available at the time of the review. In conducting these reviews, we consider the best scientific and commercial data that has become available since the listing determination or most recent status review, such as:

(A) Species biology including, but not limited to, population trends, distribution, abundance, demographics, and genetics;

(B) Habitat conditions including, but not limited to, amount, distribution, and suitability;

(C) Conservation measures that have been implemented that benefit the species;

(D) Threat status and trends (see five factors under heading "How Do We Determine Whether a Species is Endangered or Threatened?"); and

(E) Other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

IV. How Do We Determine Whether a Species is Endangered or Threatened?

Section 4(a)(1) of the Act requires that we determine whether a species is endangered or threatened based on one or more of the five following factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

Under section 4(b)(1) of the Act, we must base our assessment of these factors solely on the best scientific and commercial data available.

V. What Could Happen as a Result of This Review?

For each species under review, if we find new information that indicates a change in classification may be warranted, we may propose a new rule that could do one of the following:

(A) Reclassify the species from threatened to endangered (uplist);

(B) Reclassify the species from endangered to threatened (downlist); or

(C) Remove the species from the List (delist).

If we determine that a change in classification is not warranted, then the species remains on the List under its current status.

VI. Request for New Information

To ensure that a 5-year review is complete and based on the best available scientific and commercial information, we request new information from all sources. See "What Information Do We Consider in Our Review?" for specific criteria. If you submit information, please support it with documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources.

If you wish to provide information for any species included in these 5-year reviews, please submit your comments and materials to the Field Supervisor of the appropriate Fish and Wildlife Office (*see* **ADDRESSES** section).

VII. Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the offices where the comments are submitted.

VIII. Completed and Active Reviews

A list of all completed and currently active 5-year reviews addressing species for which the Pacific Region of the Service has lead responsibility is available at: *http://www.fws.gov/pacific/ecoservices/endangered/recovery/5year.html*.

IX. Authority

This document is published under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq*.).

Dated: March 15, 2010.

David J. Wesley,

Acting Regional Director, Region 1 Fish and Wildlife Service.

[FR Doc. 2010–7915 Filed 4–7–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORV00000.16100000.DO0000 .LXSS072H0000 HAG10–0083]

Notice of Intent To Prepare Amendments to the Southeastern Oregon Resource Management Plan (RMP), Malheur County, OR, and the Lakeview RMP, Lake County, OR, and Associated Environmental Impact Statements.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended, (NEPA) and the Federal Land Policy and Management Act of 1976, as amended, (FLPMA) the Bureau of Land Management (BLM) Vale District (Jordan Resource Area and Malheur Resource Area) and Lakeview District (Lakeview Resource Area) in southeastern Oregon intend to prepare Environmental Impact Statements (EISs) to amend the Southeastern Oregon RMP (September 2002), Vale, Oregon, and the Lakeview RMP (January 2003), Lakeview, Oregon, and by this notice are announcing the beginning of the scoping process to solicit public comments and identify issues.

DATES: This notice initiates the public scoping process for the two RMP amendments with associated EISs. Comments on issues may be submitted in writing until July 7, 2010. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local media, newspapers and the BLM Web sites at: *http://www.blm.gov/or/districts/vale/plans/valermp.php* and *http://www.blm.gov/or/districts/lakeview/plans/lakeviewrmp.php*. In order to be included in the Draft EISs, all comments must be received prior to the close of the 90-day scoping period or within 30 days after the last public meeting, whichever is later. We will provide additional opportunities for public participation upon publication of both Draft EISs.

ADDRESSES: You may submit comments on issues related to the Southeastern Oregon RMP Amendment/EIS by any of the following methods:

- *Web site: http://www.blm.gov/or/districts/vale/plans/valermp.php*.
- *E-mail: SEORMP@blm.gov*.
- *Fax:* 541–473–3144.
- *Mail:* Bureau of Land Management, Vale District Office, 100 Oregon St., Vale, Oregon 97918.

You may submit comments on issues and planning criteria related to the Lakeview RMP Amendment/EIS by any of the following methods:

- *E-mail: paul_whitman@blm.gov.*
- *Fax:* 541–947–6399.
- *Mail:* Bureau of Land Management, Lakeview District Office, 1301 South G Street, Lakeview, Oregon 97630.

Documents pertinent to these proposals may be examined at the Vale and Lakeview District Offices.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing lists, contact Jill Silvey, Southeastern Oregon and Lakeview RMP Project Manager, telephone (541) 473–3144; address 100 Oregon Street, Vale, Oregon 97918; e-mail *SEORMP@blm.gov,* or Paul Whitman, Lakeview District Planner, telephone (541) 947–6110; address, 1301 South G Street, Lakeview, Oregon 97630; e-mail *paul_whitman@blm.gov*.

SUPPLEMENTARY INFORMATION: This document provides notice that the BLM Vale and Lakeview District Offices intend to prepare RMP Amendments with associated EISs for the Southeastern Oregon and Lakeview planning areas. The two planning areas are located in Malheur, Lake, Harney, and Grant Counties in Oregon and encompass approximately 4.6 million acres of public land in the Southeastern Oregon planning area and approximately 3.2 million acres of public land in the Lakeview planning area. After the BLM completed the Southeastern Oregon RMP and the Lakeview RMP in 2002 and 2003, respectively, separate lawsuits were filed challenging each RMP. On July 14, 2008, the Ninth Cicuit ruled on the Southeastern Oregon RMP in *Oregon Natural Desert Association* v. *Bureau of Land Management,* 531 F.3d 1114 (9th Cir. 2008). Soon thereafter, the BLM filed a petition for panel rehearing of the Court's remedy (vacatur of the Record of

Decision). The matter has been stayed during settlement negotiations. The Ninth Circuit stayed litigation regarding similar challenges to the Lakeview RMP in *Oregon Natural Desert Association* v. *Gammon,* No. 07–35728 (9th Cir.), pending resolution of the Southeastern Oregon RMP case, and to allow for settlement negotiations between the parties. The BLM is preparing RMP Amendments/EISs consistent with the 2008 holding of the Ninth Circuit.

The two RMP Amendments/EISs plan to address the following issues:

- Consideration of information from updates of resource information related to wilderness characteristics;
- Development of a range of allocation alternatives with respect to ORV use, travel, and transportation; and
- Development of grazing management alternative(s).

The purpose of the public scoping processes is to determine other relevant issues that will influence the scope of the environmental analyses, including alternatives, and guide the planning processes.

The BLM has also identified some preliminary planning criteria to guide development of the RMP Amendments, to avoid unnecessary data collection and analysis, and to ensure the RMP Amendments are tailored to the issues. These criteria may be modified and/or other criteria may be identified during the public scoping process. Preliminary planning criteria include compliance with all legal mandates of the FLPMA, the NEPA, the Federal Advisory Committee Act, the Administrative Procedures Act, the BLM planning regulations in 43 CFR part 1600, and other relevant laws. The following planning criteria will also guide the planning processes:

- The principles of multiple-use and sustained yield will be observed;
- A systematic interdisciplinary approach to integrate, physical, biological, economic, and other sciences will be used;
- Priority will be given to the designation and protection of Areas of Critical Environmental Concern;
- The best available data regarding natural resources will be used, to the extent possible;
- Present and potential uses of public lands will be considered;
- The relative scarcity of values and availability of alternative means and sites for recognizing those values will be considered;
- Long term benefits to the public against short term benefits will be weighed;
- Tribal, Federal, and state pollution laws, standards and implementation plans will be complied with, to the extent possible; and
- Consistency and coordination with other programs, plans and policies will be sought.

You may submit comments on issues and planning criteria in writing to the BLM at any public scoping meeting, or you may submit them to the BLM using one of the methods listed in the **ADDRESSES** section above. To be most helpful, you should submit comments either prior to the close of the 90-day scoping period or within 30 days after the last public meeting. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. The minutes and list of attendees for each scoping meeting will be available to the public and open for 30 days after the meeting to any participant who wishes to clarify the views he or she expressed. The BLM will evaluate identified issues to be addressed in the RMP Amendments, and will place them into one of three categories:

1. Issues to be resolved in the plan amendment;

2. Issues to be resolved through policy or administrative action; or

3. Issues beyond the scope of the plan amendments.

The BLM will provide an explanation in the Draft RMP Amendments/EISs as to why an issue was placed in category two or three. The public is also encouraged to help identify any management questions and concerns that should be addressed in the RMP Amendments. The BLM will work collaboratively with interested parties to identify the management decisions that are best suited to local, regional, and national needs and concerns.

The BLM will use an interdisciplinary approach to develop the RMP Amendments in order to consider the variety of resource issues and concerns identified. At a minimum, specialists with expertise in the following disciplines will be involved in the planning processes: Rangeland management, wilderness, travel management, recreation, and wildlife.

Authority: 40 CFR 1501.7; 43 CFR 1610.2.

Larry Frazier,

Acting Vale District Manager.

Carol Benkosky,

Lakeview District Manager.

[FR Doc. 2010–7986 Filed 4–7–10; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAC09000 L16100000.DP0000]

Notice Re-opening the Comment Period for the Draft Resource Management Plan and Draft Environmental Impact Statement for the Clear Creek Management Area, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) announces a re-opening of the comment period on the Draft Resource Management Plan (RMP) and Draft Environmental Impact Statement (EIS) for the Clear Creek Management Area (CCMA). The original notice was published in the **Federal Register** on December 4, 2009 [74 FR 0232] and provided for a comment period to end on March 5, 2010. The BLM is re-opening the comment period to end April 19, 2010.

FOR FURTHER INFORMATION CONTACT: Sky Murphy, BLM Hollister Field Office, 20 Hamilton Court, Hollister, California 95023, (831) 630–5039.

SUPPLEMENTARY INFORMATION: The original Notice of Availability provided for comments on the Draft RMP/Draft EIS to be received through March 5, 2010. The BLM is re-opening the comment period in response to and in light of the land use restrictions considered in the plan. Comments on the Draft RMP and EIS will now be accepted through April 19, 2010.

Karen Montgomery,

Acting Deputy State Director for Natural Resources.

[FR Doc. 2010–7999 Filed 4–7–10; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM915000L14200000.BJ0000]

Notice of Filing of Plat of Survey, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plat of survey.

SUMMARY: The plat of survey described below is scheduled to be officially filed in the New Mexico State Office, Bureau of Land Management (BLM), Santa Fe, upon the date of this publication.

SUPPLEMENTARY INFORMATION:

New Mexico Principal Meridian, New Mexico (NM)

The plat representing the dependent resurvey and survey in Townships 20 North, Ranges 7 and 8 East, of the New Mexico Principal Meridian, accepted January 8, 2004, for Group 1018 NM. This survey is based on Public Law 108–66, 117 Stat. 876, enacted on July 30, 2003, by which Congress directed that certain lands under the management of the Bureau of Land Management be transferred to be held in trust for the Pueblos of San Ildefonso and Santa Clara. A boundary line, established by the two Pueblos, was identified by this survey to separate two tracts located within Township 20 North, Ranges 7 and 8 East, New Mexico Principal Meridian, New Mexico, more particularly described as follows:

Land Description for Santa Clara Land Tract

Beginning at Angle Point #1 on the line between Secs. 21 and 22, T. 20 N., R. 7 E., thence along the N. bdy. of San Ildefonso lands and S. bdy. of Santa Clara Lands;

S 45826′ E 22.79 chs. to Angle Point #2,
S 85847′ E 12.37 chs. to Angle Point #3,
S 25824′ E 13.23 chs. to Angle Point #4,
S 83854′ E 29.72 chs. to Angle Point #5,
S 76818′ E 35.23 chs. to Angle Point #6,
S 66842′ E 21.30 chs. to Angle Point #7,
S 60813′ E 16.50 chs. to Angle Point #8,
S 7832′ E 13.98 chs. to Angle Point #9,
S 24851′ E 23.41 chs. to Angle Point #10,
S 58857′ E 13.25 chs. to Angle Point #11 in Section 20 on the N. bdy. of the San Ildefonso Pueblo Grant, thence along the N. bdy. of the San Ildefonso Pueblo Grant;
S 89858′ E 5.49 chs. to the line between Secs. 25 and 26 to the north,
S 89858′ E 66.04 chs. to Milepost 4
N 89853′ E 4.375 chs. to Angle Point #4 of Tract A
N 43824′ W 12.12 chs. to Angle Point #3 of Tract A
N 89848′ E 5.66 chs. to Angle Point #2 of Tract A
S 43821′ E 12.115 chs. to Angle Point #1 of Tract A
N 89847′ E 4.04 chs. to the intersection with the line between T. 20 N., R. 7 E. and T. 20 N., R. 8 E., thence through Section 30, T. 20 N., R. 8 E.,
N 89847′ E 26.95 chs. to the SE corner of the Santa Clara Lands Tract, identical with the SW corner of the Santa Clara Pueblo Grant, thence along the W. bdy. of the Santa Clara Pueblo Grant;
N 0802′ E 15.33 chs. to Milepost 5,
N 0803′ E 40.31 chs. to Milepost 4½,
N 0801′ E 15.90 chs. to the closing corner between Sections 19 and 30,
N 0801′ E 24.06 chs. to Milepost 4,
North 16.10 chs. to the E–W center line of Section 19,
S 89858′ W 27.08 chs. along the E–W center line of Section 19 to the closing corner with T. 20 N., R. 7 E., thence along the line between T. 20 N., R. 7 E. and T. 20 N., R. 8 E.;
N 0845′ W 2.96 chs. to the ¼ section corner of Section 24, T. 20 N., R. 7 E., thence along the E–W center line of Section 24 and the S. bdy. of the Santa Clara Indian Reservation;
S 88818′ W 39.79 chs. to the center ¼ section corner of Section 24,
S 88824′ W 39.80 chs. to the ¼ section corner of Sections 23 and 24, thence along the E–W center line of Section 23, and the S. bdy. of the Santa Clara Indian Reservation;
S 89832′ W 39.98 chs. to the center ¼ section corner of Section 23,
S 89830′ W 39.98 chs. to the ¼ section corner of Sections 22 and 23, thence between Sections 22 and 23;
N 0806′ W 4.29 chs. to the ¼ section corner of Section 22 only,
N 0806′ W 35.94 chs. to the section corner of Sections 14, 15, 22 and 23, thence between Sections 15 and 22, and along the S. bdy. of the Santa Clara Indian Reservation;
N 89803′ W 38.635 chs. to the ¼ section corner of Section 15 only,
N 89802′ W 2.16 chs. to the ¼ section corner of Section 22 only,
N 89802′ W 36.44 chs. to the corner of Sections 15 and 16 only,
S 85819′ W 3.53 to the closing corner of Sections 21 and 22, thence along the line between Sections 21 and 22;
South 36.93 chs. to the ¼ section corner of Sections 21 and 22,
South 17.16 chs. to Angle Point #1 and point of beginning, containing 2422.99 acres, more or less.

Land Description for San Ildefonso Land Tract

Beginning at AP1 on the line between Secs. 21 and 22, T. 20 N., R. 7 E., thence along the south boundary of Santa Clara lands and the north boundary of San Ildefonso lands;

S 45826′ E 22.79 chs. to AP2,
S 85847′ E 12.37 chs. to AP3,
S 25824′ E 13.23 chs. to AP4,
S 83854′ E 29.72 chs. to AP5,
S 76818′ E 35.23 chs. to AP6,
S 66842′ E 21.30 chs. to AP7,
S 60813′ E 16.50 chs. to AP8,
S 7832′ E 13.98 chs. to AP9,
S 24851′ E 23.41 chs. to AP10,
S 58857′ E 13.25 chs. to AP11, thence along the north boundary of the San Ildefonso Pueblo Grant;
N 89858′ W 1.74 chs. to CC of Secs. 25 and 36 to the north,
N 89858′ W 7.28 chs. to Milepost 5, West, 18.12 chs. to NW Cor. San Ildefonso Pueblo Grant, thence along the west boundary of the San Ildefonso Pueblo Grant;
S 0803′ E 7.52 chs. to CC of Secs. 26 and 35 to the west,
S 0803′ E 0.88 chs. to CC of Secs. 26 and 35 to the east,
S 0803′ E 36.00 chs. to Milepost 2,
S 0802′ E 39.45 chs. to the intersection with the S. boundary of T. 20 N., R. 7 E., thence along the south boundary of sec. 35;
S 89817′ W 7.40 chs. to the ¼ section cor. of sec. 35,
West 7.02 chs. to the ¼ section cor. of sec. 2,
West 33.43 chs. to the corner of secs. 34 and 35, thence along the south boundary of Sec. 34;
S 89856′ W 6.65 chs. to the corner of Secs. 2 and 3,
S 89856′ W 33.33 chs. to the ¼ section cor. of sec. 34,
N 89853′ W 6.78 chs. to the ¼ section cor. of sec. 3,
N 89853′ W 33.20 chs. to the corner of Secs. 33 and 34, thence along the line between Secs. 33 and 34;
S 0802′ W 40.02 chs. to the ¼ section cor. of Secs. 33 and 34,
N 0803′ W 40.01 chs. to the corner of secs. 27, 28, 33 and 34, thence along the line between Secs. 27 and 28;
N 0802′ W 39.97 chs. to the ¼ section cor. of secs. 27 and 28,
North 39.93 chs. to the corner of secs. 21, 22, 27 and 28, thence along the line between Secs. 21 and 22;
North 22.90 chs. to AP1 and point of beginning, containing 1982.17 acres, more or less.

FOR FURTHER INFORMATION CONTACT: These plats will be available for inspection in the New Mexico State Office, Bureau of Land Management, 301 Dinosaur Trail, Santa Fe, New Mexico. Copies may be obtained from this office upon payment. Contact Marcella Montoya at 505–954–2097, or by e-mail at *Marcella_Montoya@nm.blm.gov,* for assistance.

Stephen W. Beyerlein,

Acting Chief, Branch of Cadastral Survey/GeoSciences.

[FR Doc. 2010–7950 Filed 4–7–10; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT926000–10–L19100000–BJ0000–LRCM08RS3474]

Notice of Filing of Plats of Survey; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, thirty (30) days from the date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Randy Thomas, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5134 or (406) 896–5009.

SUPPLEMENTARY INFORMATION: This survey was executed at the request of the Superintendent, Northern Cheyenne Agency, through the Rocky Mountain Regional Director, Bureau of Indian Affairs, and was necessary to determine boundaries of trust or tribal interest lands.

Principal Meridian, Montana

T. 2 S., R. 44 E.

The plat, in 13 sheet(s), representing the corrective dependent resurvey of a portion of the south boundary, a portion of the subdivisional lines, and a portion of the subdivision of section 34, the dependent resurvey of a portion of the south boundary, a portion of the subdivisional lines, a portion of the subdivision of certain sections, the adjusted original meanders of portions of the former left and right banks of the Tongue River, downstream, through certain sections, certain partition lines dividing an abandoned channel of the Tongue River, lying within section 10, the adjusted original medial line of an abandoned channel of the Tongue River, through sections 9 and 10, and former Tract 37, now designated Tract 38, lying within sections 9 and 10, the subdivision of section 21, and the survey of certain meanders of the present left and right banks of the Tongue River, downstream, through certain sections, the former left bank of an abandoned channel of the Tongue River, through sections 9 and 10, certain division of accretion lines, and certain partition lines dividing an abandoned channel of the Tongue River, Township 27 North, Range 4 East, Principal Meridian, Montana, was accepted March 31, 2010.

We will place a copy of the plat, in 13 sheet(s), and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on this plat, in 13 sheet(s), prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in 13 sheet(s), until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Authority: 43 U.S.C. Chap. 3

Dated: April 1, 2010.

Michael T. Birtles,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 2010–7953 Filed 4–7–10; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

National Park Service

Native American Graves Protection and Repatriation Review Committee Findings Related to the Identity of Cultural Items in the Possession of the American Museum of Natural History, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Native American Graves Protection and Repatriation Review Committee: Findings.

This notice is published as part of the National Park Service's administrative responsibilities pursuant to the Native American Graves Protection and Repatriation Act (25 U.S.C. 3006(g)). The findings of fact do not necessarily represent the views of the National Park Service or the Secretary of the Interior.

SUMMARY: The Native American Graves Protection and Repatriation Review Committee (Review Committee) was established by section 8 of the Native American Graves Protection and Repatriation Act (NAGPRA; 25 U.S.C. 3006), and is an advisory body governed by the Federal Advisory Committee Act (5 App. U.S.C. 1–16). At its October 30–31, 2009, public meeting in Sarasota, FL, the Review Committee, acting pursuant to its statutory responsibility (25 U.S.C. 3006(c)(3)), reviewed the record and made findings of fact related to the identity of 45 cultural items in the possession of the American Museum of Natural History at the request of the San Carlos Apache Tribe and the White Mountain Apache Tribe, acting through the Western Apache NAGPRA Working Group. The Review Committee found that each of the 45 cultural items was both a "sacred object" (25 U.S.C. 3001(3)(C), 43 CFR 10.2(d)(3)) and "cultural patrimony" (25 U.S.C. 3001(3)(D), 43 CFR 10.2(d)(4)).

SUPPLEMENTARY INFORMATION: In June 2007, the San Carlos Apache Tribe and the White Mountain Apache Tribe, acting through the Western Apache NAGPRA Working Group, submitted a request for repatriation of certain items in the possession of the American Museum of Natural History. The San Carlos Apache Tribe requested the repatriation of 29 items, and the White Mountain Apache Tribe requested the repatriation of 16 different items. The San Carlos Apache Tribe and the White Mountain Apache Tribe claimed each item as both a "sacred object" (25 U.S.C. 3001(3)(C), 43 CFR 10.2(d)(3)) and "cultural patrimony" (25 U.S.C. 3001(3)(D), 43 CFR 10.2(d)(4)).

In response, the American Museum of Natural History agreed that the repatriation request satisfied the criteria for such requests (43 CFR 10.10(a)). Though it agreed that the information in the repatriation request showed that each of the 45 items in question was a "cultural item", the American Museum of Natural History would neither agree nor disagree that the items belonged to the category of sacred object and the category of cultural patrimony, and it identified the items as "cultural items" in its two notices of intent to repatriate the 45 cultural items that were published in the **Federal Register** on March 9, 2009 (74 Fed. Reg. 10,066 and 10,069).

The American Museum of Natural History's position regarding the category or categories of cultural item to which each of the 45 cultural items belonged led the San Carlos Apache Tribe and the White Mountain Apache Tribe, acting through the Western Apache NAGPRA Working Group, to request from the Review Committee findings of fact on the identity, by category, of each cultural item. The Review Committee Chair agreed to the request.

At its October 30–31, 2009, meeting, the Review Committee reviewed the repatriation request from the San Carlos Apache Tribe and the White Mountain Apache Tribe for the 45 cultural items, and heard presentations by the San Carlos Apache Tribe and the White Mountain Apache Tribe in order to answer two questions. The first question was: *Did the written repatriation request—the initial document, dated June 7, 2006, plus all relevant subsequent documents sent prior to January 22, 2009—submitted to the American Museum of Natural History (Museum) by the San Carlos Apache Tribe and the White Mountain Apache Tribe, through the Western Apache NAGPRA Working Group, for items deemed by the requesting tribes to be both "sacred objects" and "cultural patrimony", show that, more likely than not, some or all of the 45 items that the Museum stated were "cultural items" in their Notices of Intent to Repatriate in fact were "sacred objects", as defined at 25 U.S.C. 3001(3)(C) and 43 CFR*

10.2(d)(3)? If yes, which cultural items were shown to be sacred objects? The second question was: *Did the written request for repatriation referenced in Question #1 show that, more likely than not, some or all of the 45 items that the Museum stated were "cultural items" in their Notices of Intent to Repatriate in fact were "cultural patrimony", as defined at 25 U.S.C. 3001CFR 10.2(d)(4)? If yes, which cultural items were shown to be cultural patrimony?*

Findings of Fact: By a unanimous vote—six members, comprising a quorum, were present—the Review Committee found that the information contained in the written repatriation request submitted to the American Museum of Natural History by the San Carlos Apache Tribe and the White Mountain Apache Tribe, as well as the information presented by the tribes to the Review Committee on October 30, 2009, in Sarasota, Florida, showed that, more likely than not, each of the 45 cultural items was both a "sacred object" and "cultural patrimony."

Dated: February 2, 2010.

Dan Monroe,

Acting Chair, Native American Graves Protection and Repatriation Review Committee.

[FR Doc. 2010–7936 Filed 4–7–10; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORM07000; L14300000.EU0000; OR–65853; HAG–10–0049]

Noncompetitive Lease of Public Land; Josephine County, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) has determined that the parcel of land identified in this notice (approximately 10.21 acres) is available for wildlife rehabilitation and education activities through a non-competitive (direct) lease to Wildlife Images Rehabilitation and Education Center in order to resolve unauthorized use and occupancy of public land. This determination of availability conforms to the Medford District Resource Management Plan (2008) as well as the Rogue River Plan (1972) and the 2003 Hellgate Recreation Area Management Plan (2003) for the Rogue National Wild and Scenic River. The determination of availability is also fully consistent with the prior Resource Management Plan, as amended, for the BLM Medford District, dated June 1995. The lease would be issued pursuant to Section 302(b) of the Federal Land Policy and Management Act of l976 (FLPMA), as amended, (90 Stat. 2762; 43 U.S.C. 1732) and the implementing regulations at 43 CFR part 2920.

DATES: Interested parties may submit written comments regarding: (1) The availability of the lands described herein for leasing, and (2) The decision to accept for processing an application from Wildlife Images Education and Rehabilitation Center for a non-competitive lease. Comments must be received no later than 45 days from the publication date of this notice in the **Federal Register**.

ADDRESSES: Address all written comments to Abbie Jossie, Field Manager, Bureau of Land Management, Grants Pass Interagency Office, 2164 NE Spalding, Grants Pass, Oregon 97526. Only written comments submitted through the U.S. Postal Service or other delivery service, or hand-delivered to the BLM Medford District Office will be considered properly filed. Electronic mail, facsimile, or telephone comments will not be considered properly filed.

FOR FURTHER INFORMATION CONTACT: Carl Symons, Realty Specialist, BLM Medford District Office, 3040 Biddle Road, Medford, Oregon 97504. Phone: (541) 618–2239.

SUPPLEMENTARY INFORMATION: The parcel is a portion of a 26.40-acre tract acquired by the United States under the authority of the Wild and Scenic Rivers Act (W&SRA) (Pub. L. 90–542) and managed as part of the Rogue W&SR Corridor. In accordance with section 14A(a) of the W&SRA, tracts within the boundaries of a wild and scenic rivers system may be leased, subject to such restrictive covenants as may be necessary to carry out the purposes of the Act. Section 14A(b) of the W&SRA also states: "Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land immediately before its acquisition by the U.S." The BLM has performed due diligence to contact the landowners prior to the U.S. acquisition (David B. Heriot, Benjamin M. Heriot, and Marcia Chamberlain) and has not been able to locate them. This notice also provides 45 days for the above-named landowners to provide written notification to the BLM, at the above address, of their objection to offering a non-competitive lease to Wildlife Images Rehabilitation and Education Center and of their desire to exercise their first right of lease offering (subject to payment of full cost recovery and fair market value rent). The following described lands have been examined and found suitable for leasing under the provisions of section 302(b) of FLPMA:

Willamette Meridian, Josephine County, Oregon

T. 35 S., R.7 W.,

A portion of the lands described in the deed from David B. Heriot, Benjamin M. Heriot, and Marcia Chamberlain to the United States, recorded Volume 283, Page 449 in Josephine County, Oregon, Deed Records, more particularly described as that portion lying West or Westerly of the Westerly right of way line of the State secondary Highway known as the Lower River Road of the following described tract: Beginning at the Southeast corner of the George B. Miller Donation Land Claim No. 37 in Township 35 South, Range 7 West of the Willamette Meridian; thence North 425.3 feet; thence West (bearing as cited in the above-mentioned deed from David B. Heriot, Benjamin M. Heriot, and Marcia Chamberlain to the United States of America) 1454.64 feet to the Southwest corner of a parcel of land described in deed from Black-Eagle Sun and Katherine B. Sun to Wildlife Images Rehabilitation and Education Center, Inc., recorded in Volume 65, Page 103, Josephine County, Oregon, Deed Records; thence Southerly to the South boundary of said Donation Land Claim No. 37, and the Northwest corner of a parcel of land described in deed from Mary Ann Wade and Gary Lynn Wade to Wildlife Images, Inc., recorded Volume 112, Page 2916 in Josephine County, Oregon, Deed Records; thence East (bearing as cited in the above-mentioned deed from David B. Heriot, Benjamin M. Heriot, and Marcia Chamberlain to the United States of America, along the South boundary of said Donation Land Claim No. 37) 1404.68 feet to the point of beginning.

The proposed lease is to resolve unauthorized uses related to Wildlife Images Rehabilitation and Education Center in Merlin, Oregon. Proposed authorizations include existing wildlife and supporting facilities such as a wildlife pond, wildlife enclosures, above- and below-ground power lines, buried water and phone lines, foot bridges, walking trails, etc. The lease is also proposed to include upgrading of wildlife fences to meet standards as set by state and/or Federal regulatory agencies.

As provided in 43 CFR 2920.5–4(b), "Land use authorizations may be offered on a negotiated, non-competitive basis when, in the judgment of the authorized officer, equities, such as prior use of the

lands exist, no competitive interest exists or where competitive bidding would represent unfair competitive and economic disadvantage to the originator of the unique land use concept. The non-competitive lease shall be issued at no less than fair market value."

A lease application will be accepted only from Wildlife Images Rehabilitation and Education Center to resolve the unauthorized uses. The lease application must include a reference to this notice and comply in all respects with the regulations pertaining to land use authorizations at 43 CFR 2920.5–2 and 2920.5–5(b). Before the BLM begins to process the application, the lease applicant must pay the full amount of the estimated costs of processing the application (including costs of preparing reports and statements required by the National Environment Policy Act, in accordance with 43 CFR 2920.6, 43 CFR 2804.16 and 43 CFR 2804.16). No final decision on the lease will be made until all required analyses are completed. If authorized, the lease would be subject to provisions of the FLPMA and all applicable regulations of the Secretary of the Interior, including, but not limited to, 43 CFR part 2920, and to valid existing rights.

Comments, including names, street addresses, and other contact information of respondents, will be available for public review. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Abbie Jossie,

Field Manager, Grants Pass Resource Area.

[FR Doc. 2010–7987 Filed 4–7–10; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCA930000; CACA 7817]

Public Land Order No. 7736; Partial Revocation of the Bureau of Reclamation Order Dated February 19, 1952; California

AGENCY: Bureau of Land Management.

ACTION: Correction.

SUMMARY: The Bureau of Land Management published a document in the **Federal Register** of September 23, 2009, which inadvertently omitted words twice in the order.

FOR FURTHER INFORMATION CONTACT: Duane Marti, 916–978–4675.

Correction

In the **Federal Register** of September 23, 2009, in FR Doc. E9–22846, (1) on page 48597, at the bottom of the third column, the Subject Heading should read "Public Land Order No. 7736, Partial Revocation of the Bureau of Reclamation Order Dated February 19, 1952, and Concurred in by the Bureau of Land Management on February 26, 1952; California"; and (2) on page 48598, at the middle of the first column, "1. The Bureau of Reclamation Order dated February 19, 1952, is hereby revoked insofar as it affects the following described land:" should read "1. The Bureau of Reclamation Order dated February 19, 1952, and concurred in by the Bureau of Land Management on February 26, 1952, is hereby revoked insofar as it affects the following described land:"

Karla D. Norris,

Associate Deputy State Director, Natural Resources (CA–930).

[FR Doc. 2010–8000 Filed 4–7–10; 8:45 am]

BILLING CODE 4310–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNMA01000 L58740000.EU; LXSS043G0000; NMNM 123371]

Notice of Realty Action; Segregation of Public Land for Proposed Sale in Sandoval County, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) is considering a competitive sale of a parcel of public land totaling 130.56 acres, more or less, in Sandoval County, New Mexico, under the provisions of Section 203 of the Federal Land Policy Management Act of 1976 (FLPMA). This Notice of Realty Action (NORA) is provided for the segregation of lands being considered for sale for a period of up to 2 years.

DATES: In order to ensure consideration of your comments regarding the NORA, as well as the environmental analysis of the proposed sale, comments must be received by May 24, 2010.

ADDRESSES: Address all comments concerning this notice to the Field Manager, BLM, Rio Puerco Field Office, 435 Montano NE, Albuquerque, New Mexico, 87107.

FOR FURTHER INFORMATION CONTACT: Connie Maestas, Realty Specialist, at the above address or telephone (505) 761–8907.

SUPPLEMENTARY INFORMATION: The following described public land in Sandoval County, New Mexico, is being considered for competitive sale under the authority of Section 203 of the FLPMA (90 Stat. 2750, 43 U.S.C. 1713) and implementing regulations at 43 CFR part 2700:

New Mexico Principal Meridian

T. 12 N., R. 6 E.,

Sec. 23, lots 1 to 4, inclusive.

The area described contains 130.56 acres more or less in Sandoval County.

The 1986 BLM Rio Puerco Resource Management Plan maintained and reprinted in 1992, identifies this parcel of public land as suitable for disposal. Conveyance of the identified public land will be subject to valid existing rights and encumbrances of record, including but not limited to, rights-of-way for roads and public utilities. Conveyance of any mineral interests pursuant to Section 209 of the FLPMA will be analyzed during processing of the proposed sale.

On April 8, 2010, the above-described land will be segregated from appropriation under the public land laws, including the mining laws, except the sale provisions of the FLPMA. Until completion of the sale, the BLM is no longer accepting land use applications affecting the identified public land, except applications for the amendment of previously filed right-of-way applications or existing authorizations to increase the term of the grants in accordance with 43 CFR 2807.15 and 2886.15. The segregative effect will terminate upon issuance of a patent, publication in the **Federal Register** of a termination of the segregation, or April 9, 2011, unless extended by the BLM State Director in accordance with 43 CFR 2711.1–2(d) prior to the termination date.

Public Comments: For a period until May 24, 2010, interested parties and the general public may submit in writing any comments concerning the land being considered for competitive sale, including notification of any encumbrances or other claims relating to the identified land, to the Rio Puerco Field Manager, BLM Rio Puerco Field Office, at the above address. In order to ensure consideration in the environmental analysis of the proposed sale, comments must be in writing and

postmarked or delivered within 45 days of the initial date of publication of this notice. Comments transmitted via e-mail will not be accepted. Comments, including names and street addresses of respondents, will be available for public review at the BLM Rio Puerco Field Office during regular business hours, except holidays. Individual respondents may request confidentiality. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment–including your personal identifying information–may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 CFR 2711.1–2.

Edwin Singleton,

District Manager.

[FR Doc. 2010–7998 Filed 4–7–10; 8:45 am]

BILLING CODE 4310–AG–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–10–006]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 6, 2010 at 11 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436, *Telephone:* (202) 205–2000.

STATUS: Open to the public.

Matters To Be Considered

1. Agenda for future meetings: none.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–130 (Third Review) (Chloropicrin from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before April 19, 2010.)
5. Outstanding action jackets:

(1) Document No. GC–10–028 concerning Inv. No. 337–TA–644 (Certain Composite Wear Components and Products Containing Same).

(2) Document No. GC–10–031 concerning Inv. No. 337–TA–568 (Certain Products and Pharmaceutical Compositions Containing Recombinant Human Erythropoietin).

(3) Document No. GC–10–034 concerning Inv. No. 337–TA–668 (Certain Non-Shellfish Derived Glucosamine and Products Containing Same).

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting. Earlier announcement of this meeting was not possible.

By order of the Commission.

Issued: March 31, 2010.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2010–8097 Filed 4–6–10; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–0219]

Office of Juvenile Justice and Delinquency Prevention; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day Notice of information collection under review; (Extension, without change, of a currently approved collection).

Juvenile Residential Facility Census

The Department of Justice (DOJ), Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until June 7, 2010. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Janet Chiancone, (202) 353–9258, Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, US Department of Justice, 810 7th Street NW., Washington, DC 20531.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of information collection:* Extension of previously approved collection.

(2) *The title of the form/collection:* Juvenile Residential Facility Census

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is CJ–15, Office of Juvenile Justice and Delinquency Prevention, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Federal Government, State, Local or Tribal. *Other:* Not-for-profit institutions; Business or other for-profit. This collection will gather information necessary to routinely monitor the types of facilities into which the juvenile justice system places young persons and the services available in these facilities.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 3,500 respondents will complete a 2-hour questionnaire.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total hour burden to complete the nominations is 7,000 annual burden hours.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: April 5, 2010.

Lynn Bryant,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2010–8009 Filed 4–7–10; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Availability of Funds and Solicitation for Grant Applications (SGA) for Grants Serving Young Adult Offenders and High School Dropouts in High-Poverty, High-Crime Communities

AGENCY: Employment and Training Administration, U.S. Department of Labor.

Announcement Type: Notice of Solicitation for Grant Applications (SGA).

Funding Opportunity Number: SGA/DFA PY 09–05.

Catalog of Federal Domestic Assistance (CFDA) Number: 17.261.

DATES: *Key Dates:* The closing date for receipt of applications under this announcement is May 10, 2010. Applications must be received no later than 4 p.m. Eastern Time.

ADDRESSES: Mailed applications must be addressed to the U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: B. Jai Johnson, Grant Officer, Reference SGA–DFA PY 09–05, 200 Constitution Avenue, NW., Room N–4716, Washington, DC 20210. For complete "Application and Submission Information," please refer to Section IV.

SUMMARY: The Employment and Training Administration announces the availability of approximately $20 million for two grants to serve young adult (ages 18 to 24) offenders and high school dropouts in high-poverty, high-crime communities. The purpose of these grants is to prepare these individuals for employment. These grants will be awarded through a competitive process open to national and regional intermediaries with experience conducting multi-site projects and experience serving young adult offenders. The Department expects to award two grants of $10 million each covering a six-month planning period and two full years of operation. Grantees will be required to competitively select local sub-grantees to operate the program in a minimum of five high-poverty, high-crime communities across at least two States.

This solicitation provides background information and describes the application submission requirements, outlines the process that eligible entities must use to apply for funds covered by this solicitation, and outlines the evaluation criteria used as a basis for selecting the grantees.

SUPPLEMENTARY INFORMATION: This solicitation consists of eight parts:

Part I provides a description of this funding opportunity.

Part II describes the size and nature of the anticipated awards.

Part III describes eligibility information.

Part IV provides information on the application and submission process.

Part V describes the criteria against which applications will be reviewed and explains the proposal review process.

Part VI provides award administration information.

Part VII contains DOL agency contact information.

Part VIII other information.

I. Funding Opportunity Description

Each year approximately 650,000 persons are released from State and Federal prisons. These prisoners do not return to communities evenly distributed across the United States, but rather return disproportionately to high-poverty communities characterized by high rates of joblessness, crime, and drug abuse. Released prisoners face high probabilities of returning to crime, with Department of Justice data showing that three out of five released prisoners are arrested for new crimes within three years, and two out of five return to prison within threes years. Returning offenders face a myriad of problems that contribute to their high rates of re-arrest and re-imprisonment, including joblessness, low educational levels, and drug addiction. The unemployment rate among ex-prisoners has been estimated between 25 and 40 percent. An estimated 19 percent of adult State prisoners are completely illiterate and 40 percent are functionally illiterate; over half of State parole entrants are not high school graduates; and as many as eleven percent have only an eighth grade education or less.

To help address these problems the DOL will award grants under this announcement to improve the employment prospects of young adult (ages 18 to 24) released prisoners and high school dropouts living in high-poverty, high-crime communities. The purpose of these grants is to prepare these individuals for employment, by increasing the employment rate of participants, decreasing the recidivism rate of young offenders served, increasing the rate at which participants receive high school diplomas and industry-recognized credentials, and increasing the rate at which participants enter post-secondary education and training. These grants will be awarded through a competitive process open to national and regional intermediaries with experience conducting multi-site projects and experience serving young adult offenders. The DOL expects to award two grants of $10 million each covering a six-month planning period and two full years of operation. Program Requirements are as follows:

A. Selection of Sub-Grantees

Grantees will be required to competitively select local sub-grantees to operate the program in a minimum of five high-poverty, high-crime communities across at least two States. This competition should be held after grant award. The Department is not encouraging applicants to hold competitions or select local sub-grantees and sites prior to submitting their proposals and applicants will not receive any additional points for identifying local sub-grantees and sites in their proposals.

Grantees must follow their own procurement requirements in conducting this competition, provided that they meet the federal standards at 29 CFR Parts 95 and 97. These federal standards require that procurement transactions be conducted in a manner providing to the maximum extent practical, open and free competition. The Department recognizes that national and regional intermediary organizations vary as to whether or not they have local offices, affiliates, or members. National and regional intermediaries without local offices, affiliates, or members must conduct an open and free competition to select sub-grantees and sites. National and regional intermediaries with local offices, affiliates, or member organizations must also conduct an open and free competition to select sub-grantees and sites but may restrict the competition to its local offices, affiliates, or members to select sub-grantees and sites. If a proposal identifies a specific entry to provide services, the DOL/ETA's award does not provide the justification or basis to sole source the procurement, i.e., avoid competition, unless the activity is regarded as the primary work of an official partner to the application.

B. Communities To Be Served

Grant funds must be used to serve young adult offenders and high school dropouts living in or planning to return to, upon release, high-poverty, high-crime communities. In their solicitations to select sub-grantees, grantees must require that applicants identify a community to be served that has a poverty rate of at least 30 percent. Beginning in 2010, the American Community Survey conducted by the U.S. Bureau of Census, will have data available at the Census Tract level. If that data is available by the time grantees are holding their competitions to select sub-grantees, grantees must require applicants to use American Community Survey data to show the cumulative poverty rate of the various Census Tracts included in their proposed target community. If Census Tract data are not yet available in the American Community Survey at the time of the grantee solicitations for sub-grantees, grantees must require applicants to use data from the 2000 Census to show the cumulative poverty rate of the various Census Tracts in their proposed target community. Individual Census Tracts within the proposed target community may have poverty rates of less than 30 percent, but the cumulative poverty rate for the community to be served must be over 30 percent. Census Tracts that make up the community to be served must be contiguous, and grantees must require in their solicitations that applicants provide an accurate map showing a contiguous target community. Additionally, as part of their solicitation, grantees must require applicants to demonstrate that the area to be served is a high-crime area.

For purposes of this SGA, a high-crime area may be demonstrated by providing data showing that the felony crime rate in the police precinct that most closely overlaps with the community to be served is higher than the overall city's felony crime rate. Additionally, as part of their solicitation and in order to demonstrate local need and determine if the target population is large enough to make such awards within the stated locality grantees must require applicants to provide data from the State correctional agency on the number of released prisoners returning to the community each year from State prisons, and data from the public school system on the dropout rate of public high schools serving the area. There are no requirements on the size of the population of the community to be served. At least 90 percent of the participants need to be residing in or planning to return to the target area, with the remaining participants residing in or planning to return to generally the same geographic area.

C. Required Project Components

Each local project funded under these grants must include each of the components described below. In their solicitations to select sub-grantees, grantees must require local projects to include each of these components. Each individual enrolled in these projects does not necessarily have to participate in each of these components.

1. Employment Strategies

The employment strategies component can include strategies such as job placement, transitional jobs, on-the job training, subsidized jobs in both the public and private sectors, participation in conservation and service corps programs, and job readiness training. An emphasis should be on placing participants in high-demand occupations including green jobs. Designing this component will require sub-grantees to coordinate with the local workforce system to provide access both to employers and the service providers funded by the local workforce system.

2. Case Management

This component will provide a team of full-time advocates to serve program participants. The Department anticipates these case managers or advocates will assist parole officers in serving returning young offenders and in linking these offenders to supportive services, housing, mental health services, and other social services including anger management. The Department expects that case management will start at some point prior to release to allow young offenders to become familiar with their case managers prior to release.

3. Training and Educational Strategies

This component will provide opportunities for young adult offenders and high school dropouts to receive vocational training leading to industry-recognized credentials as well as remediation to improve their math, reading, writing and English language skills to prepare for General Educational Development (GED) tests. These services can either be provided directly with grant funds or through linkages with existing local adult education and community college programs. The Department encourages links to registered apprenticeship programs and to community college two-year degree programs.

4. Mentoring

This component will be aimed at providing adult mentors for returning young offenders and high school dropouts. Mentoring can be provided through volunteers recruited in a variety of ways, including through faith and community-based organizations and corporations, and may include one-on-one mentoring, group mentoring, and service-based mentoring. The Department recognizes that it may not be possible to provide a mentor for every participant, but grantees should develop strategies to provide a high proportion of their participants with mentors.

5. Restorative Justice Projects

This component will provide each sub-grantee with the opportunity to develop restorative justice projects that allow returning offenders to participate in community service projects to give something positive back to their neighborhood to make up for their criminal offenses. Examples of possible collaborating agencies for these civic justice projects include local conservation and service corps programs, volunteer organizations, and State and local parks. Note that funds from these grants cannot be used to pay for building materials.

6. Community-Wide Efforts to Reduce Crime and Violence

This component will provide each sub-grantee with the opportunity to involve faith-based and community organizations, State and local government agencies, and social service organizations in the neighborhoods being served in a community-wide effort to prevent crime and violence as was done in Boston's 10 Point Coalition (*http://www.jsonline.com/story/index.aspx?id=212652*).

D. Required Partnerships

Each sub-grantee will be required to develop partnerships to assist in the following activities. In their solicitations to select sub-grantees, grantees must require applicants to have commitments to assist in these activities in place from these organizations:

- The State correctional agency in order to receive referrals of prisoners about to be released who plan to return to the community being served;
- The local parole office in order to receive referrals of released prisoners and to collaborate in serving these individuals;
- Local drug and alcohol abuse treatment centers in order to provide assistance to program participants in need of such services; and

• The local Workforce Investment Board in order to provide access to employment services provided by One-Stop Career Centers.

Grantees are also encouraged to partner with employers, registered apprenticeship, educational institutions, and [labor or labor-management partnerships].

E. Allowable Uses of Grant Funds

Allowable uses of grant funds for projects funded under these grants include but are not limited to the following activities:

(1) Workforce and education activities, such as:

• Job placement services,

• Vocational skills training and on-the-job training,

• Paid and unpaid work experiences, including transitional jobs and community service activities,

• Payment of stipends which are generally provided to participants for participating in classes and training and wages for work performed,

• Basic skills instruction and remedial education,

• Language instruction educational programs for individuals with limited English proficiency,

• Tutoring, credit retrieval programs, dropout prevention activities, GED instruction, and career awareness classes,

• Counseling and assistance in obtaining postsecondary education and required financial aid; and

• Alternative secondary school services.

(2) Case management services and related activities, such as comprehensive guidance and counseling on drug and alcohol abuse and referrals and anger management counseling;

(3) Mentoring and related supportive services;

(4) Participant personal development activities that seek to develop non-technical skills, abilities, and traits that participants need to function in a specific employment environment that supports one or more workplace competencies including problem-solving and other cognitive skills, oral communication skills, personal qualities, work ethic, and interpersonal and teamwork skills. Examples include leadership training, financial literacy training, and job readiness training;

(5) Referrals to supportive housing, mental health and substance abuse services as may be available;

(6) The provision of needs-related payments, which is limited financial assistance to participants who are determined under the grantee's policy to require support to participate in the program; and;

(7) Follow-up services that focus efforts on job retention, wage gains and career progress through regular contact with participant employers, including assistance in addressing work-related problems that arise, assistance in securing better paying jobs, career development and further education, work in peer support groups, adult mentoring, and tracking of progress made by participants in employment after training.

II. Award Information

A. Award Amount

The Department expects to award two grants of approximately $10 million each.

B. Period of Performance

Grants will be awarded for a 30-month period of performance that includes up to six months of planning and at least 24 full months of operation. In the Budget Narrative section, applicants must provide separate budgets for planning and operations. Regardless of the length of the planning period, applicants must budget for a full 24 months of operation. At the Department's discretion, no-cost extensions may be granted.

III. Eligibility Information and Other Grant Specifications

A. Eligible Applicants

Applicants may be national and regional organizations with experience in conducting multi-site demonstrations and experience serving young adult ex-offenders. To be eligible for awards, applicants must show evidence that they have both (1) conducted at least one multi-site project operated concurrently in at least five local areas across more than one State, and (2) have experience serving young adult ex-offenders. The experience in conducting multi-site projects does not necessarily have to be in serving ex-offenders.

B. Cost Sharing or Matching

There is no cost sharing or matching requirement in these grants, but the Department strongly encourages grantees to include the leveraging of resources as one of the evaluation factors that they use to select local sub-grantees. Leveraged resources can come from a variety of sources, including: public sector (*e.g.,* Federal, State, or local governments); non-profit sector (*e.g.,* community organizations, faith-based organizations, or education and training institutions); private sector (*e.g.,* businesses or industry associations); investor community (*e.g.,* angel networks); philanthropic community; and the economic development community.

C. Other Eligibility Requirements

Eligible Enrollees

An individual may participate in a project funded under these grants if they are:

• At least age 18 and not above age 24 on the date of enrollment;

• Are currently incarcerated in the adult criminal justice or juvenile justice systems in a State or Federal prison or local jail or state or local juvenile correctional facility; are on probation or parole in the adult criminal justice system; have previously been incarcerated or on probation in the adult criminal justice system or the juvenile justice system, or are a high school dropout (an individual who is no longer attending any school and who has not received a secondary school diploma or recognized equivalent), and

• Reside in or plan to return to upon release the community to be served identified by the sub-grantee, except that up to 10 percent of enrollees may reside in or plan to return to a geographic area outside of but close to the target community.

A minimum of 60 percent of program participants must be currently or previously incarcerated, currently or previously on probation, or currently or previously on parole in the adult criminal justice system.

D. Veterans' Priority

The Jobs for Veterans Act (Pub. L. 107–288) requires priority of service to veterans and spouses of certain veterans for the receipt of employment, training, and placement services in any job training program directly funded, in whole or in part, by DOL. The regulations implementing this priority of service can be found at 20 CFR part 1010. In circumstances where a grant recipient must choose between two qualified candidates for training, one of whom is a veteran or eligible spouse, the Veterans Priority of Service provisions require that the grant recipient give the veteran or eligible spouse priority of service by admitting him or her into the training program. To obtain priority of service a veteran or spouse must meet the program's eligibility requirements. Grantees must comply with DOL guidance on veterans' priority. Employment and Training Administration ("ETA") Training and Employment Guidance Letter (TEGL) No. 10–09 (issued November 10, 2009) provides guidance on implementing

priority of service for veterans and eligible spouses in all qualified job training programs funded in whole or in part by DOL. TEGL No. 10–09 is available at *http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2816.*

IV. Application and Submission Information

A. How To Obtain an Application Package

This SGA contains all the information and links to forms needed to apply for grant funding. Additionally, all application materials are available on the following Web sites: *http://www.doleta.gov/grants/find_grants.cfm* and *http://www.grants.gov.*

B. Content and Form of Application Submission

The application must consist of three separate and distinct parts: (I) the Cost Proposal, (II) the Technical Proposal, and (III) Attachments to the Technical Proposal. Applications that fail to adhere to the instructions in this section will be considered non-responsive and will not be reviewed nor considered for award. Please note that it is the applicant's responsibility to ensure that the amount of funds requested is consistent across all parts and sub-parts of the application.

Part 1. The Cost Proposal. The Cost Proposal must include the following four items.

- *Application for Federal Assistance SF–424:* The Standard Form (SF)-424, "Application for Federal Assistance" is available at *http://www07.grants.gov/agencies/forms_repository_information.jsp* and *http://www.doleta.gov/grants/find_grants.cfm.* The SF–424 must clearly identify the applicant and be signed by an individual with authority to enter into a grant agreement. Upon confirmation of an award, the individual signing the SF–424 on behalf of the applicant shall be considered the authorized representative of the applicant.
- *Data Universal Number System (D–U–N–S®) Number:* Applicants must supply their D–U–N–S® on the SF–424. All applicants for Federal grant and funding opportunities are required to have a D–U–N–S® Number. See Office of Management and Budget (OMB) Notice of Final Policy Issuance, 68 FR 38402, Jun. 27, 2003. The lead applicant, the CBO, must supply their D–U–N–S® number on the SF–424. The D–U–N–S® Number is a non-indicative, nine-digit number assigned to each business location in the Dun and Bradstreet (D&B) database having a unique, separate, and distinct operation, and is maintained solely by D&B entities. The D–U–N–S® Number is used by industries and organizations around the world as a global standard for business identification and tracking. Obtaining a D–U–N–S® Number is easy and there is no charge. To obtain a D–U–N–S® number, access this Web site: *www.dunandbradstreet.com* or call 1–866–705–5711.
- *The SF–424A Budget Information Form:* The SF–424A Budget Information Form is available at *http://www07.grants.gov/agencies/forms_repository_information.jsp* and *http://www.doleta.gov/grants/find_grants.cfm.* In preparing the Budget Information Form, the applicant must provide a concise narrative explanation to support the request, explained in detail below.
- *Budget Narrative:* The budget narrative must provide a description of costs associated with each line item on the SF–424A. In addition, the applicant should address precisely how the administrative costs support the project goals. The entire Federal grant amount requested should be included on both the SF–424 and SF–424A. Please note that applicants that fail to provide a SF–424, a SF–424A, a D–U–N–S® Number, and a budget narrative will be removed from consideration before the technical review process.

Applicants are also encouraged, but not required, to submit OMB Survey N. 1890–0014: Survey on Ensuring Equal Opportunity for Applicants, which can be found at *http://www.doleta.gov/sga/forms.cfm.*

Part II. The Technical Proposal. The Technical Proposal demonstrates the applicant's capability to implement the grant project in accordance with the provisions of this solicitation. The guidelines for the content of the Technical Proposal are provided in section V.A of this SGA. The Technical Proposal is limited to 20 double-spaced single-sided 8.5×11 inch pages with 12 point text font and 1-inch margins. *Any materials beyond the 20-page limit will not be read.* Further, any tables or charts contained in the Technical Proposal are included in the 20-page limit and should be single-spaced single-sided 8.5 × 11 inch pages with 12 point text font and 1 inch margins. Applicants should number the Technical Proposal beginning with page number 1. Applications that do not include Part II, the Technical Proposal, will be considered non-responsive. The application should also include a 2-page Executive Summary, which does not count against the 20-page limit for the Technical Proposal.

Part III. Attachments to the Technical Proposal. In addition to the 20-page Technical Proposal, the applicant must submit the following "Required Attachments": Only these attachments listed below as "Required Attachments" will be excluded from the page limit. The "Required Attachments" must be affixed as separate, clearly identified appendices to the application. Additional materials such as resumes or general letters of support or commitment will not be read. The "Required Attachments" are as follows:

(a) The Two-Page Executive Summary

Applications may be submitted electronically on *Grants.gov* or in hardcopy by mail or hand delivery. These processes are described in further detail in Section IV.C. Applicants submitting proposals in hardcopy must submit an original signed application (including the SF–424) and one (1) "copy-ready" version free of bindings, staples or protruding tabs to ease in the reproduction of the proposal by DOL. Applicants submitting proposals in hardcopy are also required to provide an identical electronic copy of the proposal on compact disc (CD).

C. Submission Process Date, Times, and Addresses

The closing date for receipt of applications under this announcement is May 10, 2010. Applications must be received at the address below no later than 4:00 p.m. Eastern Time. Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. If an application is submitted by both hardcopy and through *http://www.grants.gov* a letter must accompany the hardcopy application stating why two applications were submitted and the differences between the two submissions. If no letter accompanies the hardcopy, we will review the copy submitted through *http://www.grants.gov.* For multiple applications submitted through *http://www.grants.gov,* we will review the latest submittal. Applications that do not meet the conditions set forth in this notice will be considered nonresponsive. No exceptions to the mailing and delivery requirements set forth in this notice will be granted.

Mailed applications must be addressed to the U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: B. Jai Johnson, Grant Officer, Reference SGA/DFA PY 09–05, 200 Constitution Avenue, NW., Room N4716, Washington, DC 20210. Applicants are advised that mail delivery in the Washington area may be

delayed due to mail decontamination procedures. Hand-delivered proposals will be received at the above address. All overnight mail will be considered to be hand-delivered and must be received at the designated place by the specified closing date and time.

Applicants may apply online through Grants.gov (*http://www.grants.gov*); however, due to the expected increase in system activity applicants are encouraged to use an alternate method to submit grant applications during this heightened period of demand. While not mandatory, DOL encourages the submission of applications through a professional overnight delivery service.

Applications that are submitted through Grants.gov must be successfully submitted at *http://www.grants.gov* no later than 4 p.m. Eastern Time on the closing date, and then subsequently validated by Grants.gov. The submission and validation process is described in more detail below. The process can be complicated and time-consuming. Applicants are strongly advised to initiate the process as soon as possible and to plan for time to resolve technical problems if necessary. The Department strongly recommends that before the applicant begins to write the proposal, applicants should immediately initiate and complete the "Get Registered" registration steps at *http://www.grants.gov/applicants/get registered.jsp.* Applicants should read through the registration process carefully before registering. These steps may take as much as four weeks to complete, and this time should be factored into plans for electronic submission in order to avoid unexpected delays that could result in the rejection of an application. The site also contains registration checklists to help you walk through the process.

The Department strongly recommends that applicants download the "Organization Registration Checklist" at *http://www.grants.gov/assets/Organization Steps Complete Registration.pdf* and prepare the information requested before beginning the registration process. Reviewing and assembling required information before beginning the registration process will alleviate last minute searches for required information and save time.

To register with Grants.gov, applicants applying electronically must have a D–U–N–S® Number and must register with the Federal Central Contractor Registry (CCR). Step-by-step instructions for registering with CCR can be found at *http://www.grants.gov/applicants/org_step2.jsp.* All applicants must register with CCR in order to apply online. Failure to register with the CCR will result in your application being rejected by Grants.gov during the submission process. The next step in the registration process is creating a username and password with Grants.gov to create a profile as an Authorized Organizational Representative (AOR). AORs will need to know the D–U–N–S® Number of the organization for which they will be submitting applications to complete this process. To read more detailed instructions for creating a profile on Grants.gov visit: *http://www.grants.gov/applicants/org_step3.jsp.* After creating a profile on Grants.gov, the E–Biz Point of Contact (E–Biz POC)—a representative from your organization who is the contact listed for CCR—will receive an e-mail to grant the AOR permission to submit applications on behalf of their organization. The E–Biz POC will then log in to Grants.gov and approve an applicant as the AOR, thereby giving him or her permission to submit applications. To learn more about AOR Authorization visit: *http://www.grants.gov/applicants/org_step5.jsp,* or to track AOR status visit: *http://www.grants.gov/applicants/org_step6.jsp.* An application submitted through Grants.gov constitutes a submission as an electronically signed application. The registration and account creation with Grants.gov, with E–Biz POC approval, establishes an AOR. When you submit the application through Grants.gov, the name of your AOR on file will be inserted into the signature line of the application. Applicants must register the individual who is able to make legally binding commitments for the applicant organization as the AOR; this step is often missed and it is crucial for valid submissions.

When a registered applicant submits an application with Grants.gov, an electronic time stamp is generated within the system when the application is successfully received by Grants.gov. Within two business days of application submission, Grants.gov will send the applicant two e-mail messages to provide the status of application progress through the system. The first e-mail, almost immediate, will contain a tracking number and will confirm receipt of the application by Grants.gov. The second e-mail will indicate the application has either been successfully validated or has been rejected due to errors. Only applications that have been successfully submitted by the deadline and subsequently successfully validated will be considered. It is the sole responsibility of the applicant to ensure a timely submission. While it is not required that an application be successfully validated before the deadline for submission, it is prudent to reserve time before the deadline in case it is necessary to resubmit an application that has not been successfully validated. Therefore sufficient time should be allotted for submission (two business days) and, if applicable, subsequent time to address errors and receive validation upon resubmission (an additional two business days for each ensuing submission). It is important to note that if sufficient time is not allotted and a rejection notice is received after the due date and time, the application will not be considered.

To ensure consideration, the components of the application must be saved as either .doc, .xls or .pdf files. If submitted in any other format, the applicant bears the risk that compatibility or other issues will prevent our ability to consider the application. ETA will attempt to open the document but will not take any additional measures in the event of issues with opening. In such cases, the non-conforming application will not be considered for funding. We strongly advise applicants to use the plethora of tools and documents, including FAQs, that are available on the "Applicant Resources" page at *http://www.grants.gov/applicants/resources.jsp.* To receive updated information about critical issues, new tips for users and other time sensitive updates as information is available, applicants may subscribe to "Grants.gov Updates" at *http://www.grants.gov/applicants/email_subscription_signup.jsp.*

If applicants encounter a problem with Grants.gov and do not find an answer in any of the other resources, call 1–800–518–4726 to speak to a Customer Support Representative or e-mail *support@grants.gov.* The Contact Center is open 24 hours a day, seven days a week. They are closed on Federal holidays.

Late Applications: For applications submitted on Grants.gov, only applications that have been successfully submitted no later than 4.00 p.m. Eastern Time on the closing date and subsequently successfully validated will be considered. Applicants take a significant risk by waiting to the last day to submit by Grants.gov. Any application received after the exact date and time specified for receipt at the office designated in this notice will not be considered, unless it is received before awards are made, it was properly addressed, and it was: (a) Sent by U.S. Postal Service mail, postmarked not

later than the fifth calendar day before the date specified for receipt of applications (*e.g.,* an application required to be received by the 20th of the month must be postmarked by the 15th of that month); or (b) sent by professional overnight delivery service to the addressee not later than one working day before the date specified for receipt of applications. "Postmarked" means a printed, stamped or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable, without further action, as having been supplied or affixed on the date of mailing by an employee of the U.S. Postal Service. Therefore, applicants should request the postal clerk to place a legible hand cancellation "bull's eye" postmark on both the receipt and the package. Evidence of timely submission by a professional overnight delivery service must be demonstrated by equally reliable evidence created by the delivery service provider indicating the time and place of receipt.

D. Intergovernmental Review

This funding opportunity is not subject to Executive Order (EO) 12372, "Intergovernmental Review of Federal Programs."

E. Other Submission Requirements

Withdrawal of Applications. Applications may be withdrawn by written notice at any time before an award is made.

F. Funding Restrictions

Determinations of allowable costs will be made in accordance with the applicable Federal cost principles. Disallowed costs are those charges to a grant that the grantor agency or its representative determines not to be allowed in accordance with the applicable Federal cost principles or other conditions contained in the grant. Successful and unsuccessful applicants will not be entitled to reimbursement of pre-award costs.

DOL/ETA's acceptance of a proposal and award of Federal funds to sponsor any program does not provide a waiver of any grant requirements and/or procedures. The Office of Management and Budget (OMB) Circulars A–122 and A–87 require that an entity's procurement procedures must ensure that all procurement transactions are conducted, as much as practical, to provide open and free competition.

1. Indirect Cost Rate

As specified in OMB Circular Cost Principles (A–122 and A–87), indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. In order to use grant funds for indirect costs incurred, the applicant must obtain an Indirect Cost Rate Agreement with its Federal cognizant agency either before or shortly after grant award.

2. Administrative Costs

Under this SGA, an entity that receives a grant to carry out a project or program may not use more than ten percent of the amount of the grant to pay administrative costs associated with the program or project. Administrative costs could be direct or indirect costs, and are defined at 20 CFR 667.220. Administrative costs do not need to be identified separately from program costs on the SF424A Budget Information Form. They should be discussed in the budget narrative and tracked through the grantee's accounting system. To claim any administrative costs that are also indirect costs, the applicant must obtain an Indirect Cost Rate Agreement from its Federal cognizant agency.

3. Allowable Costs

The Department determines what constitutes allowable costs in accordance with the following Federal cost principles, as applicable: (1) State and Local Government—OMB Circular A–87; (2) Educational Institutions—OMB Circular A–21; (3) Nonprofit Organizations—OMB Circular A–122; and (4) Profit-making Commercial Firms—48 CFR Part 31.

4. Legal Rules Pertaining to Inherently Religious Activities by Organizations That Receive Federal Financial Assistance

The government is generally prohibited from providing direct Federal financial assistance for inherently religious activities. See 29 CFR part 2, Subpart D. Grants under this solicitation may not be used for religious instruction, worship, prayer, proselytizing, or other inherently religious activities. Neutral, non-religious criteria that neither favor nor disfavor religion will be employed in the selection of grant recipients and must be employed by grantees in the selection of sub-recipients.

5. Salary and Bonus Limitations

Under Public Law 109–234, none of the funds appropriated in Public Law 109–149, or prior Acts under the heading "Employment and Training" that are available for expenditure on or after June 15, 2006, shall be used by a recipient or sub-recipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II. Public Laws 111–8 and 111–117 contain the same limitations with respect to funds appropriated under each of those Laws. These limitations also apply to grants funded under this SGA. The salary and bonus limitation does not apply to vendors providing goods and services as defined in OMB Circular A–133 (codified at 29 CFR parts 96 and 99). See Training and Employment Guidance Letter number 5–06 for further clarification: *http://wdr.doleta.gov/directives/corr_doc.cfm?DCON=2262.*

6. Intellectual Property Rights

The Federal Government reserves a paid-up, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use for Federal purposes: (i) The copyright in all products developed under the grant, including a sub-grant or contract under the grant or sub-grant; and (ii) any rights of copyright to which the grantee, sub-grantee or a contractor purchases ownership under an award (including but not limited to curricula, training models, technical assistance products, and any related materials). Such uses include, but are not limited to, the right to modify and distribute such products worldwide by any means, electronically or otherwise. Federal funds may not be used to pay any royalty or licensing fee associated with such copyrighted material, although they may be used to pay costs for obtaining a copy which is limited to the developer/seller costs of copying and shipping. If revenues are generated through selling products developed with grant funds, including intellectual property, these revenues are program income. Program income is added to the grant and must be expended for allowable grant activities.

If applicable, the following needs to be on all products developed in whole or in part with grant funds:

This workforce solution was funded by a grant awarded by the U.S. Department of Labor's Employment and Training Administration. The solution was created by the grantee and does not necessarily reflect the official position of the U.S. Department of Labor. The Department of Labor makes no guarantees, warranties, or assurances of any kind, express or implied, with respect to such information, including any information on linked sites and including, but not limited to, accuracy of the information or its completeness, timeliness, usefulness, adequacy, continued availability, or ownership. This solution is copyrighted by the institution that created it. Internal use by an organization and/or personal use by an individual for non-commercial purposes are

permissible. All other uses require the prior authorization of the copyright owner.

V. Application Review Information

A. Evaluation Criteria

This section identifies and describes the criteria that will be used to evaluate proposals. Points will be awarded as follows:

- Project Design: 40 points.
- Plan for Conducting Competition and for Providing Oversight, Monitoring, and Technical Assistance to Sub-Grantees: 20 points.
- Organizational Experience in Conducting Multi-Site Projects and Experience Serving Young Adult Ex-Offenders: 20 points.
- Organizational Fiscal Capacity: 20 points.

The components listed above make up the Technical Proposal (along with the additional requirements listed in section IV. B).

1. Project Design

Discuss how you will implement each of the required project components in Part I of the grant announcement:

- *Employment Strategies:* Discuss the strategies that you will use to place ex-offenders and high school dropouts in jobs, and the expected number of participants to be served through each of these employment strategies.
- *Case Management:* Discuss how you will carry out this component, including the number of case managers you expect sub-grantees to hire, the anticipated number of participants each case manager will serve, and how sub-grantees will provide supportive services and links to housing, mental health services, and other social services.
- *Training and Educational Strategies:* Discuss the training and educational strategies that you will implement and the expected number of participants to be served through each of the training and educational strategies.
- *Mentoring:* Describe how the mentoring component will be carried out, including how mentors will be recruited, screened, and trained, the expected length of time participants will be mentored, and the anticipated number of participants who will receive mentors. Also, discuss the extent to which you will use one-on-one mentoring, group mentoring, service-centered mentoring, and work-based mentoring.
- *Restorative Justice:* Discuss how you will implement community service projects for participants, the anticipated number of projects, and the number of enrollees expected to be served in this component.
- *Community-Wide Violence Reduction Efforts:* Discuss plans for bringing together faith and community-based organizations, State and local government agencies, and social service organizations in neighborhoods served by the grant to prevent crime and violence.

To be considered fully responsive the applicant must fully and clearly describe its plans and strategies for implementing the required project components in a manner that will demonstrate the organization's experience, capabilities, and qualifications for administering a grant project.

Proposals will be evaluated under this criterion for each of the six required components as follows:

- Up to 10 points will be awarded for the employment strategies component and up to 6 points each will be awarded for the remaining five components. The points for each of the required components will be rated by the panel based on:
- The extent to which the applicant demonstrates that it has thought through how it will implement the component; and
- The potential for the component as designed by the applicant to have large impact on the young adult offender and high school dropout population in the communities to be served.

2. Plan for Conducting Competition and for Providing Oversight, Monitoring, and Technical Assistance to Sub-Grantees

Discuss how you will conduct the competition to select sub-grantees for the project. Provide details about the scope and manner of selecting sub-grantees and describe the factors on which you expect to evaluate proposals from potential sub-grantees. Discuss how you will provide oversight, guidance, and coordination for the sub-grantees to ensure the successful implementation of the project across all sites. Discuss how you will monitor the progress of sub-grantees. Only discuss your monitoring of technical aspects of the project under this criterion; discuss fiscal monitoring under Criterion 4 Fiscal Capacity below. Discuss what technical assistance you will provide to sub-grantees for implementing the required employment, case management, educational, mentoring, restorative justice, and community-wide components. Discuss what assistance that you will provide to sub-grantees in developing partnerships with Federal and State prisons, local jails, parole officers, local drug and alcohol treatment services, local workforce investment boards, housing, mental health services, and other social services.

To be considered fully responsive the applicant must fully and clearly describe its plans and strategies for implementing the required project components in a manner that will demonstrate the organization's experience, capabilities, and qualifications for administering a grant project.

Proposals will be evaluated under this criterion as follows:

- Up to 20 points will be awarded by the panel based on:
- The extent to which your plan for conducting the competition is likely to result in quality sub-grantees operating the project in high-poverty, high-crime communities and the quality of the design of the competition;
- The extent to which your plan for providing oversight, guidance, monitoring, and coordination for sub-grantees is clear, practical, and likely to result in a successful project;
- The extent to which your plan for providing technical assistance to sub-grantees in the six required project components is clear, practical, and likely to result in a successful project;
- The extent to which your plan to assist sub-grantees in developing partnerships with Federal and State prisons, local jails, parole officers, workforce investment boards, and local drug and alcohol treatment providers is clear and likely to be effective in helping sub-grantees develop such partnerships.

3. Organizational Experience in Conducting Multi-Site Projects and Experience Serving Young Adult Ex-Offenders

First, discuss your organization's experience conducting multi-site projects in at least five local areas across at least two States. Select one multi-site project that makes the strongest case for your ability to conduct such projects. Describe this project, the number of participants, the oversight and coordination you provided to grantees, the technical assistance that you provided sub-grantees, the extent of your success in implementing the project, the outcomes of participants in the project, and the partnerships developed in carrying out this project. Second, discuss your organization's experience in serving ex-offenders. Select one project that makes the strongest case for your ability to serve ex-offenders. Describe this project, the number of participants, the extent of

your success in implementing the project, the outcomes of participants in the project, and the partnerships developed in carrying out this project. If the multi-site project you select is the same as the ex-offender project you select, this project can serve as your answer to both parts of this rating criterion.

To be considered fully responsive the applicant must fully and clearly describe its plans and strategies for implementing the required project components in a manner that will demonstrate the organization's experience, capabilities, and qualifications for administering a grant project.

Proposals will be evaluated under this criterion as follows:

Up to 10 points will be awarded for experience in conducting multi-site projects and up to 10 points will be awarded for experience in serving ex-offenders. These points will be awarded by the panel based on:

- The organization's success in implementing the project described;
- The level of oversight, coordination, and technical assistance provided to sub-grantees;
- The employment, educational, and recidivism outcomes achieved by participants in the project; and
- The extent of partnerships developed in carrying out the project.

4. Organizational Fiscal Capacity

Provide evidence of your organization's fiscal capacity to carry out this project in a manner that protects government funds.

- Describe the fiscal controls that you have in place to safeguard federal funds;
- Discuss the positive and negative findings from your three most recent audits, and your resolution of negative findings (Applicants agree to provide the Department with these audits if requested);
- Discuss the fiscal controls you had in place in overseeing sub-grantees in previous multi-site projects, and discuss whether there were any fiscal problems relating to sub-grantees in these previous projects;
- Describe the fiscal controls and monitoring you will have in place overseeing the sub-grantees in this project.

To be considered fully responsive the applicant must fully and clearly describe its plans and strategies for implementing the required project components in a manner that will demonstrate the organization's experience, capabilities, and qualifications for administering a grant project.

Proposals will be evaluated under this criterion as follows:

Up to 20 points will be awarded based on:

- The fiscal controls you currently have in place.
- The findings from your three most recent audits and your resolution of negative findings (Taking into account the seriousness of negative findings, applicants with no negative findings will receive higher scores on this item than applicants who have effectively resolved negative findings, who in turn will receive higher scores on this item than applicants who have not as yet effectively resolved negative findings);
- The fiscal controls you had in place in previous multi-site projects and any fiscal problems for sub-grantees; and
- The fiscal controls and monitoring you plan to have in place for sub-grantees for this project.

B. Review and Selection Process

Applications for grants under this solicitation will be accepted after the publication of this announcement and until the closing date. A technical review panel will carefully evaluate applications against the selection criteria. These criteria are based on the policy goals, priorities, and emphases set forth in this SGA. Up to 100 points may be awarded to an application, depending on the quality of the responses to the required information described in section V.A. The ranked scores will serve as the primary basis for selection of applications for funding, in conjunction with other factors such as geographic balance, and which proposals are most advantageous to the government. The panel results are advisory in nature and not binding on the Grant Officer. The Grant Officer may consider any information that comes to his/her attention. The government may elect to award the grant(s) with or without discussions with the applicant. Should a grant be awarded without discussions, the award will be based on the applicant's signature on the SF 424, including electronic signature via E-Authentication on *http://www.grants.gov,* which constitutes a binding offer by the applicant.

VI. Award Administration Information

A. Award Notices

All award notifications will be posted on the ETA Homepage (*http://www.doleta.gov*). Applicants selected for award will be contacted directly before the grant's execution and non-selected applicants will be notified by mail. Selection of an organization as a grantee does not constitute approval of the grant application as submitted. Before the actual grant is awarded, ETA may enter into negotiations about such items as program components, staffing and funding levels, and administrative systems in place to support grant implementation. If the negotiations do not result in a mutually acceptable submission, the Grant Officer reserves the right to terminate the negotiation and decline to fund the application.

B. Administrative and National Policy Requirements

1. Administrative Program Requirements

All grantees, including FBOs, will be subject to all applicable Federal laws, regulations (available at *http://gpoaccess.gov/cfr*) and the applicable OMB Circulars (available at *http://www.whitehouse.gov/omb/circulars*). The grants awarded under this SGA are subject to the applicable administrative standards and provisions, including, but not limited to, the following:

- All Grant Recipients—20 CFR part 667.220 (Administrative Costs).
- Non-Profit Organizations—OMB Circulars A–122 (Cost Principles) and 29 CFR part 95 (Administrative Requirements).
- Educational Institutions—OMB Circulars A–21 (Cost Principles) and 29 CFR part 95 (Administrative Requirements).
- State and Local Governments—OMB Circulars A–87 (Cost Principles) and 29 CFR part 97 (Administrative Requirements).
- Profit Making Commercial Firms—Federal Acquisition Regulation (FAR)—48 CFR part 31 (Cost Principles), and 29 CFR part 95 (Administrative Requirements).
- 29 CFR part 2, subpart D—Equal Treatment in Department of Labor Programs for Religious Organizations, Protection of Religious Liberty of Department of Labor Social Service Providers and Beneficiaries.
- 29 CFR parts 29 and 30—Labor Standards for Registration of Apprenticeship Programs, and Equal Employment Opportunity in Apprenticeship and Training.
- 29 CFR part 31—Nondiscrimination in Federally Assisted Programs of the Department of Labor—Effectuation of Title VI of the Civil Rights Act of 1964.
- 29 CFR part 32—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.
- 29 CFR part 33—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Labor.

• 29 CFR part 35—Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the Department of Labor.

• 29 CFR part 36—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.

• All entities must comply with 29 CFR parts 37, 93, and 98, and where applicable 29 CFR parts 96 and 99.

The Department notes that the Religious Freedom Restoration Act (RFRA), 42 U.S.C. 2000bb, applies to all Federal law and its implementation. If your organization is a faith-based organization that makes hiring decisions on the basis of religious belief, it may be entitled to receive Federal financial assistance under Title I of the Workforce Investment Act and maintain that hiring practice even though Section 188 of the Workforce Investment Act contains a general ban on religious discrimination in employment. If you are awarded a grant, you will be provided with information on how to request such an exemption.

In accordance with section 18 of the Lobbying Disclosure Act of 1995 (Pub. L. 104–65) (2 U.S.C. 1611) and 29 CFR part 93, non-profit entities that engage in lobbying activities are not eligible to receive Federal funds and grants.

2. Administrative Standards and Provisions

Except as specifically provided, DOL ETA acceptance of a proposal and an award of Federal funds to sponsor any program(s) does not provide a waiver of any grant requirements and/or procedures. For example, the OMB circulars require, and an entity's procurement procedures must require, that all procurement transactions will be conducted, as practical, to provide full and open competition. If a proposal identifies a specific entity to provide the services, the DOL ETA award does not provide the justification or basis to sole-source the procurement, i.e., avoid competition, unless the activity is regarded as the primary work of an official partner to the application.

3. Special Program Requirements

Evaluation. DOL may require that the Grantee cooperate in an independent evaluation of their project. This evaluation will make use of program MIS data, local administrative data on crime and recidivism, and program progress reports. DOL recognizes that there will be limitations on this cooperation due to State confidentiality requirements regarding data on individual offenders.

C. Reporting and Accountability

These grants will be subject to performance goals measuring their progress in meeting the goals of the grants. National goals will be set after grant award in the following areas:

• Reducing the recidivism rate of young adult offenders served;

• Increasing the employment rate of participants;

• Increasing the rate at which participants receive high school diplomas, and industry-recognized credentials;

• Increasing the rate at which participants enter post-secondary education and training.

Quarterly financial reports, quarterly progress reports, and MIS data will be submitted by the grantee electronically. Grantees must agree to meet DOL reporting requirements. The grantee is required to provide the reports and documents listed below:

The grantee is required to provide the reports and documentation listed below.

• *Quarterly Financial Reports.* A Quarterly Financial Status Report (ETA 9130) is required until such time as all funds have been expended or the grant period has expired. Quarterly reports are due 45 days after the end of each calendar year quarter. Grantees must use DOL ETA's On-Line Electronic Reporting System. A Closeout Financial Status Report is due 90 days after the end of the grant period.

• *Quarterly Progress Reports.* The grantee must submit a quarterly progress report to the designated Federal Project Officer within 45 days after the end of each calendar year quarter. Two copies are to be submitted providing a detailed account of activities undertaken during that quarter. DOL ETA may require additional data elements to be collected and reported on either a regular basis or special request basis. Grantees must agree to meet DOL ETA reporting requirements. The quarterly progress report should be in narrative form and should include:

—In-depth information on accomplishments, including project success stories, upcoming grant activities, and promising approaches and processes.

—Progress toward meeting performance outcomes.

—Challenges being faced by the grantee in implementing the project.

MIS Reports

Organizations will be required to submit updated MIS data within 45 days after the end of each quarter based on a DOL template that reports on enrollment, services provided, placements, outcomes, and follow-up status.

In addition, between scheduled reporting dates, the grantee(s) must immediately inform the designated Federal Project Officer of significant developments affecting the ability to accomplish the work.

• Final Performance Report. This report should provide both quarterly and cumulative information on the grant's activities. It must summarize project activities, employment outcomes and other deliverables, and related results of the project, and should thoroughly document the training or labor market information approaches utilized by the grantee. DOL will provide grantees with formal guidance about the data and other information that is required to be collected and reported on either a regular basis or special request basis. Grantees must agree to meet DOL reporting requirements.

Applicants should be aware of Federal guidelines on record retention, which require grantees to maintain all records pertaining to grant activities for a period of not less than three years from the time of final grant close-out.

VII. Agency Contacts

For further information regarding this SGA, please contact Denise Roach, Grants Management Specialist, Division of Federal Assistance, at (202) 693–3820 (please note this is not a toll-free number). Applicants should fax all technical questions to (202) 693–2705 and must specifically address the fax to the attention of Denise Roach and should include SGA–DFA–PY–09–05, a contact name, fax and phone number, and e-mail address. Applicants may e-mail to *roach.denise@dol.gov,* and include a contact name, fax and phone number, and an e-mail address. The mailing address is: U.S. Department of Labor, OGCM/ETA, Attention: Denise Roach, 200 Constitution Avenue, NW., Room N 4716, Washington, DC 20210.

VIII. Additional Resources and Other Information

A. Resources for the Applicant

DOL maintains a number of web-based resources that may be of assistance to applicants: Questions and responses submitted to the Grant Officer regarding the SGA will be posted on the Employment and Training Web site at *http://www.doleta.gov.* Questions will be received for one month after publication.

B. Other Information

A. OMB Information Collection No. 1225–0086. Expires November 30, 2012

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. Public reporting burden for this collection of information is estimated to average 20 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimated or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, to the attention of Darrin A. King, Departmental Clearance Officer, 200 Constitution Avenue, NW., Room N–1310, Washington, DC 20210. Comments may also be e-mailed to *DOL_PRA_PUBLIC@dol.gov.* Please do not return the completed application to this address. Send it to the sponsoring agency as specified in this solicitation.

This information is being collected for the purpose of awarding a grant. The information collected through this SGA will be used by the Department to ensure that grants are awarded to the applicant best suited to perform the functions of the grant. Submission of this information is required in order for the applicant to be considered for award of this grant. Unless otherwise specifically noted in this announcement, information submitted in the respondent's application is not considered to be confidential, and will be available to the public. Applications filed in response to this SGA may be posted on the Department's Web site.

Please be advised that the Grant Officer for this competition is B. Jai Johnson.

Signed at Washington, DC, this 2nd day of April 2010.

Donna Kelly,

Grant Officer,

Employment and Training Administration.

[FR Doc. 2010–7912 Filed 4–7–10; 8:45 am]

BILLING CODE 4510–FT–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Application No. and Proposed Exemption involving D–11565, Citizens Bank Wealth Management, N.A.

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Employee Benefits Security Administration (EBSA), Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. ____, stated in each Notice of Proposed Exemption. Interested persons are also invited to submit comments and/or hearing requests to EBSA via e-mail or FAX. Any such comments or requests should be sent either by e-mail to: "*moffitt.betty@dol.gov*", or by FAX to (202) 219–0204 by the end of the scheduled comment period. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue, NW., Washington, DC 20210.

Warning: If you submit written comments or hearing requests, do not include any personally-identifiable or confidential business information that you do not want to be publicly-disclosed. All comments and hearing requests are posted on the Internet exactly as they are received, and they can be retrieved by most Internet search engines. The Department will make no deletions, modifications or redactions to the comments or hearing requests received, as they are public records.

Notice to Interested Persons

Notice of the proposed exemption will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemption was requested in an application filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of proposed exemption is issued solely by the Department.

The application contains representations with regard to the proposed exemption which is summarized below. Interested persons are referred to the application on file with the Department for a complete statement of the facts and representations.

Citizens Bank Wealth Management, N.A., Located in Flint, Michigan

[Application No. D–11565]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570 Subpart B (55 FR 32836, 32847, August 10, 1990).

Section I. Transaction

If the proposed exemption is granted, the restrictions of section 406(a)(1)(A)

and (D) and section 406(b)(1) and (b)(2) of the Act, and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A), (D), and (E) of the Code, shall not apply, effective December 16, 2008, to the past sale of certain Auction Rate Securities (ARS) by the Four-Way Tool & Die, Inc. Profit Sharing Plan and Trust (the Plan) to Citizens Republic Bancorp (Citizens Republic), a party in interest with respect to the Plan, provided that the following conditions were satisfied: [1]

(A) The subject ARS were acquired for the Plan by Citizens Bank Wealth Management, N.A. (the Trustee), acting in its capacity as trustee of the Plan, from an independent broker;

(B) The last auction for each of the ARS was unsuccessful;

(C) The sale of the ARS was directly between the Plan and Citizens Republic for solely cash consideration against prompt delivery of the ARS;

(D) The sale price for each of the ARS was equal to the par value, plus any accrued but unpaid interest;

(E) The Plan did not waive any rights or claims in connection with the sale;

(F) The decision to sell the ARS to the Trustee was made by a Plan fiduciary independent of the Trustee;

(G) The Plan did not pay any commissions or transaction costs in connection with the sale;

(H) The sale was not part of an arrangement, agreement, or understanding designed to benefit a party in interest to the Plan;

(I) Upon termination of the Plan, the Plan participants received 100 percent of their account balances, and as a result of the pre-termination sale of the ARS to Citizens Republic at face value, plus any accrued but unpaid interest, no participant was adversely affected by the absence of an auction market for the ARS or the resulting decline in their market value;

(J) The Trustee and its affiliate, as applicable, maintain, or cause to be maintained, for a period of at least six (6) years from the date of the sale, such records as are necessary to enable the persons described in paragraph (K), below, to determine whether the conditions of this exemption, if granted, have been met, except that—

(i) No party in interest with respect to the Plan that engaged in the sale, other than the Trustee and its affiliate, as applicable, shall be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975(a) and (b) of the Code, if such records are not maintained, or are not available for examination, as required, below, by paragraph (K); and

(ii) A separate prohibited transaction shall not be considered to have occurred solely because, due to circumstances beyond the control of the Trustee or its affiliate, as applicable, such records are lost or destroyed prior to the end of the six-year period; and

(K)(i) Except as provided in subparagraph (ii), below, and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (J), above, are unconditionally available at their customary location for examination during normal business hours by—

(a) Any duly authorized employee or representative of the Department, the Internal Revenue Service, or the U.S. Securities and Exchange Commission;

(b) Any fiduciary of the Plan, or any duly authorized employee or representative of such fiduciary; or

(c) The employer of participants of the Plan, and any employee organization whose members are covered by the Plan, or any authorized employee or representative of these entities;

(ii) None of the persons described above in (b) or (c) of subparagraph (K) shall be authorized to examine trade secrets of the Trustee, or commercial or financial information which is privileged or confidential; and

(iii) If the Trustee refuses to disclose information on the basis that such information is exempt from disclosure, the Trustee shall, by the close of the thirtieth (30th) day following the request, provide a written notice advising that person of the reasons for the refusal and that the Department may request such information.

Section II. Definitions

For purposes of this exemption:

(A) The term "affiliate" means any person, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person (with respect to the Trustee, "affiliate" includes, but is not limited to, its parent corporation, Citizens Republic Bancorp;

(B) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual;

(C) The term "Auction Rate Securities" or "ARS" means securities that are debt instruments (generally with a long-term nominal maturity) with an interest rate that is reset at specific intervals through a Dutch Auction process;

(D) A person is "independent" of the Trustee if the person is (1) not the Trustee or an affiliate, and (2) not a "relative" (as defined in section 3(15) of the Act) of the party engaging in the transaction; and

(E) The term "Plan" means the Four-Way Tool & Die, Inc. Profit Sharing Plan and Trust, which is an employee benefit plan as defined in section 3(3) of the Act, and its related trust, which is an entity holding plan assets within the meaning of 29 CFR 2510.3–101, as modified by section 3(42) of the Act.

Summary of Facts and Representations

1. Four-Way Tool & Die, Inc. (the Employer), located in Troy, Michigan, is engaged in the production of tooling, primarily for the automotive industry. The Four-Way Tool & Die, Inc. Profit Sharing Plan and Trust (the Plan), a defined contribution plan qualified under section 401(a) of the Code, was adopted by the Employer, effective October 1, 1969; was most recently amended and restated, effective October 1, 2007; and was terminated, effective January 31, 2009, and all assets were liquidated and distributed to the Plan participants. As of December 16, 2008, the Plan had 16 active participants (and no beneficiaries receiving benefits) and total assets of approximately $4,166,240. The Plan maintained individual accounts for each participant, but participants were not permitted to direct the investment of his or her account.

2. The applicant Citizens Bank Wealth Management, N.A. (also referred to herein as the Trustee) was the trustee of the Plan, beginning in October 1, 2007, having full investment discretion under a trust agreement with the Employer to invest Plan assets within the guidelines set by a written investment policy. The Trustee is a national banking association headquartered in Flint, Michigan and a wholly owned subsidiary of Citizens Republic Bancorp (Citizens Republic), a bank holding company. Among other things, the Trustee acts as an institutional trustee for employee benefit plans and is a registered investment advisor subject to the Investment Advisers Act of 1940.

3. It is represented that, on various dates from November 2, 2007 to December 24, 2007, the Trustee acquired certain Auction Rate Securities (ARS) as an investment for the Plan through UBS Financial Services, an independent international broker.[2] The

[1] For purposes of this proposed exemption, references to section 406 of the Act should be read to refer also to the corresponding provisions of section 4975 of the Code.

[2] The Department expresses no opinion herein as to whether the acquisition and holding of the ARS

Continued

value of the ARS was allocated among all participants' accounts (in the same manner as all other Plan investments) in accordance with the terms of the Plan.

The Trustee describes the ARS and the arrangement by which they are purchased and sold as follows. The ARS are securities (in each case herein issued as debt) with an interest rate that is not fixed but is reset at periodic intervals pursuant to a process called a "Dutch Auction." Investors submit orders to buy, hold, or sell a specific ARS to a broker-dealer selected by the entity that issued the ARS. The broker-dealers, in turn, submit all of these orders to an auction agent. The auction agent's functions include collecting orders from all participating broker-dealers by the auction deadline, determining the amount of securities available for sale, and organizing the bids to determine the winning bid. If there are any buy orders placed into the auction at a specific rate, the auction agent accepts bids with the lowest rate above any applicable minimum rate and then successively higher rates up to the maximum applicable rate, until all sell orders and orders that are treated as sell orders are filled. Bids below any applicable minimum rate or above the applicable maximum rate are rejected. After determining the "clearing rate" for all of the securities at auction, the auction agent allocates the ARS available for sale to the participating broker-dealers based on the orders that they submitted. If there are multiple bids at the clearing rate, the auction agent will allocate securities among the bidders at such rate on a pro rata basis. In the event of a failed auction, existing ARS holders receive the maximum rate set in the official statements under which the ARS were issued (*i.e.,* the "default rate") until such time as sufficient bids are received to set a new clearing rate at the next auction.

4. According to the applicant, the subject ARS acquired for the Plan were backed by student loans and were primarily selected based upon the credit rating of the issuer. Soon after the Plan's acquisition of the ARS, however, the unanticipated crisis in the national credit markets resulted in over ten months of failed auctions.[3] Consequently, the Plan was unable to dispose of its ARS, thereby jeopardizing liquidity to make benefit payments, mandatory payments and withdrawals, and expense payments when due. The Employer's business was also impacted by the general economic downturn and the dramatic decline in automobile sales. In late 2008, the Trustee was notified of a proposed sale of the Employer and of its intention to terminate the Plan by year's end and distribute all assets to participants as soon as administratively possible. With the Employer likely to be sold and uncertainty about a new owner, Plan participants were anxious to receive their vested account balances.[4]

To relieve the situation, it is represented that the Trustee offered to have its parent corporation, Citizens Republic Bancorp, purchase the ARS directly from the Plan at their par value, plus accrued but unpaid interest. Larry Erickson, the owner and president of the Employer and a fiduciary of the Plan, orally consented after reviewing all the material terms of the sale,[5] including the identity and par value of each of the ARS, the interest amounts that were due with respect to each of the ARS, and the most recent rate information for each of the ARS (to the extent that reliable information was available).[6] The percentage of Plan assets involved in the sale on December 16, 2008 was approximately 61.56%.[7]

The following chart provides information on each of the subject ARS sold to Citizens Republic. The last column of the chart shows the "default rate" of interest for each of the ARS paid by Citizens Republic for accrued but unpaid interest from the date of the last interest payment until the date of sale. It is represented that none of the ARS was in default in payment of interest as of the sale date on December 16, 2008.[8]

Issuer name	Face value	CUSIP	Nature of issuer	Rating	Secondary insurance	Rate at sale date (%)
Iowa Student Loan Liquidity Corp	$300,000	462590GK0	Private Entity	Aa3/AA	AMBAC Assurance.	3.135
Access to Loans for Learning Student Loan Corporation.	300,000	00432MAR0	Private Entity	Aaa/AAA	None	3.135
Pennsylvania Higher Education Assistance Agency.	300,000	709163GR4	Private Entity	Aaa/AAA	AMBAC Assurance.	3.198
Connecticut Student Loan Foundation.	200,000	207784AG4	Private Entity	Aaa/AAA	None	3.398
State Board of Regents of the State of Utah.	200,000	917546EM1	Private Entity	Aaa/AAA	None	2.431
Illinois Student Loan Assistance Commission.	350,000	452281HT8	Private Entity	Aaa/AAA	None	3.325

by the Plan met the requirements of Part 4 in Title I of the Act.

[3] The applicant represents that all auctions for the ARS subsequent to the subject sale also failed.

[4] According to the applicant, the anticipated sale of the Employer ultimately was not consummated at the last minute, due to the rapid decline in capital available to the prospective buyer in late 2008, but the Plan has been terminated.

[5] According to the applicant, Mr. Erickson is a member of the Citizens Bank Southeast Michigan Advisory Board, an entity that has no management responsibility or authority and cannot bind Citizens Republic nor any of its affiliates; thus, the board had no role in the subject sale of ARS by the Plan to Citizens Republic. The board's primary function is in the area of public relations—ensuring community involvement in determining important goals and strategies for the bank to benefit the community, identifying area charitable organizations in need of support, and suggesting ways in which the bank can effectively support the local economy. The board is comprised of various community leaders and bank customers, such as Mr. Erickson. Each member of the board receives a stipend of $550 per meeting attended; there are six or fewer meetings per year.

[6] The Department notes that the general standards of fiduciary conduct set forth in the Act also apply to the subject transaction described herein. In this regard, section 404 duties respecting a plan solely in the interest of the plan's participants and beneficiaries and in a prudent manner. Accordingly, the Plan fiduciary must act prudently with respect to, among other things: (1) the decision to sell an ARS, following disclosure by the Trustee of all of the relevant information; and (2) the negotiation of the terms of such sale, including the pricing. The Department further emphasizes that the prudence rule described in section 404 requires that fiduciaries conduct an objective and thorough decision making process that considers all of the relevant information prior to entering into financial transactions involving employee benefit plan assets to ensure that all risks associated with such transactions are understood.

[7] The Department expresses no opinion herein as to whether the percentage of Plan assets invested in the subject ARS met the diversification requirement of Part 4 in Title I of the Act.

[8] With respect to the ARS issued by the New Hampshire Higher Education Loan Corp, the applicant represents that the 0.000% coupon rate indicated in the chart was the result of earlier interest coupon overpayments by the issuer that had been made in error. In total, the Plan had already received a greater amount of interest than the issuer was responsible to pay under the terms of the security's official statement.

Issuer name	Face value	CUSIP	Nature of issuer	Rating	Secondary insurance	Rate at sale date (%)
Pennsylvania Higher Education Assistance Agency.	300,000	709163DA4	Private Entity	Aaa/AAA	None	3.547
New Hampshire Higher Education Loan Corp.	300,000	644616AV6	Private Entity	Aaa/AAA	None	0.000
Illinois Student Loan Assistance Commission.	300,000	452281HS0	Private Entity	Aaa/AAA	None	2.695
Iowa Student Assistance Commission.	300,000	462590GF1	Private Entity	Aaa/AAA	None	2.695
Total	2,850,000					

5. The Trustee represents that the Plan was their only employee benefit plan client holding ARS. However, numerous other individual and corporate customers of the trust department held ARS in their accounts. When the business decision was made for Citizens Republic to purchase the illiquid ARS from the Trustee's customer accounts, it was determined that all purchases should be made on the same basis and at the same time, so as not to differentiate among different investors. It is represented that, because the Trustee's intention was to complete the purchases prior to the close of 2008, seeking a prospective exemption for the one employee benefit plan customer would have either delayed the repurchases for all customers or potentially disadvantaged the Plan by not simultaneously participating in the repurchase program. The Plan did not waive any rights or claims in connection with the sale of ARS to Citizens Republic.

The applicant represents that the sale of the ARS by the Plan to Citizens Republic was in the best interests of Plan because the sale permitted the Plan to pay benefits and expenses of administration and to proceed with termination, effective January 31, 2009, and the prompt distribution of cash to all participants. Further, according to the applicant, the extreme illiquidity in the credit markets at the time, and over ten months of failed auctions, made it very apparent that all the ARS held by the Plan had a fair market value below par and could not be worth more than that amount in the near term, given the historically low interest rate environment.[9] The sale was for solely cash consideration against prompt delivery of the ARS, and the Plan did not pay any commissions or transaction costs in connection with the sale. It is represented that, upon termination of the Plan, the Plan participants received 100 percent of their account balances, and as a result of the pre-termination sale of the ARS to Citizens Republic at face value, plus any accrued but unpaid interest, no participant was adversely affected by the absence of an auction market for the ARS or the resulting decline in their market value.

The Trustee is bearing the costs of the exemption application. The Employer is bearing the costs of notifying interested persons.

6. In summary, the subject transaction satisfied the statutory criteria for an exemption under section 408(a) of the Act for the following reasons: (a) The sale of the ARS was directly between the Plan and Citizens Republic for solely cash consideration against prompt delivery of the ARS; (b) the sale price for each of the ARS was equal to the par value, plus any accrued but unpaid interest; (c) the Plan did not waive any rights or claims in connection with the sale; (d) the decision to sell the ARS to the Trustee was made by the Employer, who is independent of the Trustee, after receiving disclosure of all the material terms of the sale; (e) the Plan did not pay any commissions or transaction costs in connection with the sale; and (f) upon termination of the Plan, the Plan participants received 100 percent of their account balances, and as a result of the pre-termination sale of the ARS to Citizens Republic at face value, plus any accrued but unpaid interest, no participant was adversely affected by the absence of an auction market for the ARS or the resulting decline in their market value.

FOR FURTHER INFORMATION CONTACT: Ms. Karin Weng of the Department, telephone (202) 693–8557. (This is not a toll-free.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

[9] According to the applicant, due to the failure of the primary market, a secondary market arose; information obtained from secondary market activity, as well as third party valuations, indicates that these particular ARS issues have traded at discounts averaging between 72.0% and 84.5% of par.

Signed at Washington, DC, this *2nd* day of *April,* 2010.

Ivan Strasfeld,

Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2010–7892 Filed 4–7–10; 8:45 am]

BILLING CODE 4510–29–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–410; NRC–2010–0117]

Nine Mile Point Nuclear Station, LLC; Nine Mile Point Nuclear Station, Unit No. 2; Draft Environmental Assessment and Finding of No Significant Impact Related to the Proposed License Amendment To Increase the Maximum Reactor Power Level, Correction

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Draft Environmental Assessment and Finding of No Significant Impact; Correction.

SUMMARY: This document corrects a draft Environmental Assessment (EA) appearing in the **Federal Register** on March 22, 2010 (75 FR 13600). This action is necessary to state the expiration date of the 30-day public comment period and to include instructions for submitting written comments to the NRC. The corrected draft EA is provided as follows: In accordance with 10 CFR 51.21, the NRC has prepared a draft EA as part of its evaluation of a request by Nine Mile Point Nuclear Station, LLC (the licensee) for a license amendment to increase the maximum thermal power at the Nine Mile Point Nuclear Station, Unit No. 2 (NMP2) from 3,467 megawatts thermal (MWt) to 3,988 MWt. This represents a power increase of approximately 15 percent over the current licensed thermal power, and approximately 20 percent from the original licensed power level of 3,323 MWt. The NRC staff did not identify any significant environmental impact associated with the proposed action based on its evaluation of the information provided in the licensee's extended power uprate (EPU) application and other available information. The draft EA and Finding of No Significant Impact are being published in the **Federal Register** with a 30-day public comment period ending May 10, 2010.

Environmental Assessment

Plant Site and Environs

The Nine Mile Point Nuclear Station (NMPNS) site is in the town of Scriba, in the northwest corner of Oswego County, New York, on the south shore of Lake Ontario. The site is comprised of approximately 900 acres that includes two nuclear reactors and ancillary facilities. NMP2 uses a boiling-water reactor and a nuclear steam supply system designed by General Electric.

Identification of the Proposed Action

By application dated May 27, 2009, the licensee requested an amendment for an EPU for NMP2 to increase the licensed thermal power level from 3,467 MWt to 3,988 MWt, which represents an increase of approximately 15% above the current licensed thermal power and approximately 20% over the original licensed thermal power level. This change in core thermal level requires the NRC to amend the facility's operating license. The operational goal of the proposed EPU is a corresponding increase in electrical output from 1,211 MWe to 1,369 MWe. The proposed action is considered an EPU by NRC because it exceeds the typical 7% power increase that can be accommodated with only minor plant changes. EPUs typically involve extensive modifications to the nuclear steam supply system.

The licensee plans to make the physical changes to plant components needed to implement the proposed EPU over the course of two refueling outages currently scheduled for 2010 and 2012. The actual power uprate, if approved by the NRC, would occur in a single increase following the 2012 refueling outage.

The Need for the Proposed Action

The proposed action provides NMPNS with the flexibility to increase the potential electrical output of NMP2 and to supply low cost, reliable, and efficient electrical generation to New York State and the region. The additional 158 MWe would be enough to power approximately 174,000 homes. The proposed EPU at NMP2 would contribute to meeting the goals and recommendations of the New York State Energy Plan for maintaining the reserve margin and reducing greenhouse gas emissions with low cost, efficient, and reliable electrical generation. The proposed action provides the licensee with the flexibility to increase the potential electrical output of NMP2 to New York State and the region from its existing power station without building a new electric power generation station or importing energy from outside the region.

Environmental Impacts of the Proposed Action

As part of the licensing process for NMP2, the NRC published a Final Environmental Statement (FES) in May 1985. The NRC staff noted that the impact of any activity authorized by the license would be encompassed by the overall action evaluated in the FES for the operation of NMP2. In addition, the NRC evaluated the environmental impacts of operating NMP2 for an additional 20 years beyond its current operating license, and determined that the environmental impacts of license renewal were small. The NRC staff's evaluation is contained in NUREG–1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Plant, Supplement 24, Regarding Nine Mile Point Nuclear Station, Units 1 and 2" (SEIS–24) issued in May 2006 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML061290310). The NRC staff used information from the licensee's license amendment request, the FES, and the SEIS–24 to perform its EA for the proposed EPU.

The NMP2 EPU is expected to be implemented without making extensive changes to buildings or plant systems that directly or indirectly interface with the environment. All necessary modifications would be performed in existing buildings at NMP2. With the exception of the high-pressure turbine rotor replacement, the required modifications are generally small in scope. Other modifications include providing additional cooling for some plant systems, modifications to feedwater pumps, modifications to accommodate greater steam and condensate flow rates, and instrumentation upgrades that include minor items such as replacing parts, changing setpoints and modifying software.

The sections below describe the non-radiological and radiological impacts in the environment that may result from the proposed EPU.

Non-Radiological Impacts

Land Use and Aesthetic Impacts

Potential land use and aesthetic impacts from the proposed EPU include impacts from plant modifications at NMP2. While some plant components would be modified, most plant changes related to the proposed EPU would occur within existing structures, buildings, and fenced equipment yards

housing major components within the developed part of the site. No new construction would occur outside of existing facilities and no expansion of buildings, roads, parking lots, equipment lay-down areas, or transmission facilities would be required to support the proposed EPU.

Existing parking lots, road access, equipment lay-down areas, offices, workshops, warehouses, and restrooms would be used during plant modifications. Therefore, land use conditions would not change at NMP2. Also, there would be no land use changes along transmission lines (no new lines would be required for the proposed EPU), transmission corridors, switch yards, or substations.

Since land use conditions would not change at NMP2, and because any land disturbance would occur within previously disturbed areas, there would be little or no impact to aesthetic resources in the vicinity of NMP2. Therefore, there would be no significant impact from EPU-related plant modifications on land use and aesthetic resources in the vicinity of NMP2.

Air Quality Impacts

Air quality within the Nine Mile Point area is generally considered good, with exceptions occurring for designated ozone nonattainment areas. NMPNS is located in Oswego County which is part of the Central Air Quality Control Region covered by Region 7 of the New York State Department of Environmental Conservation. With the exception of ozone, this region is designated as being in attainment or unclassifiable for all criteria pollutants in Environmental Protection Agency's (EPA's) 40 CFR 81.333.

There are approximately 1000 people employed on a full-time basis. This workforce is typically augmented by an additional 1,000 persons on average during regularly scheduled refueling outages. For the EPU work in 2012, the workforce numbers would be somewhat larger than a routine outage, but would be of short duration. During implementation of the EPU at NMP2, some minor and short duration air quality impacts would occur. The main source of the air emissions would be from the vehicles of the additional outage workers needed for the EPU work. The majority of the EPU work would be performed inside existing buildings and would not impact air quality. Operation of the reactor at the increased power level would not result in increased non-radioactive emissions that would have a significant impact on air quality in the region. Therefore, there would be no significant impact on air quality during and following implementation of the proposed EPU.

Water Use Impacts

Groundwater

NMP2 does not use groundwater in any of its water systems and has no plans for direct groundwater use in the future. There are no production wells on the site for either domestic-type water uses or industrial use. Potable water in the area is supplied to residents either through the Scriba Water District, which receives its water from the City of Oswego, or from private wells.

Because of variations in the hydrogeological characteristics of the ground under the reactor building foundation, a permanent dewatering system is required for NMP2. The system consists of perimeter drains and two sumps located below the NMP2 reactor building. The dewatering system is designed to maintain the water table below the reactor building foundation at a stable level. The licensee asserts that implementation of the proposed EPU will not result in a change to the groundwater use program at NMP2. Therefore, there would be no significant impact on groundwater resources following implementation of the proposed EPU.

Surface Water

NMP2 uses surface water from Lake Ontario for the service water system and for a fish diversion system. As described in the licensee's application, the cooling water system for NMP2 consists of a circulating water system, which circulates cooling water through the main condensers to condense steam after it passes through the turbine, and a service water system which circulates cooling water through heat exchangers that serve various plant components. The service water system for NMP2 is a once-through system withdrawing water from Lake Ontario. However, the circulating water system is a closed-cycle system that uses a natural draft cooling tower. A portion of the cooling water from the service water discharge is used to replace evaporative and drift losses from the cooling tower. NMP2 has its own cooling water intake and discharge structures located offshore in Lake Ontario. The intake and discharge structures are located approximately 950 feet and 1,050 feet offshore. The discharge structure is a two-port diffuser located 3 feet above the bottom approximately 1,500 feet offshore. Because the NMP2 circulating water system is closed-cycle, flows are substantially less than for a typical open-cycle system. During normal operation, an average total flow of 53,600 gallons per minute (gpm) is withdrawn from Lake Ontario, 38,675 gpm for the service water system and makeup to the circulating water system to replace evaporation and drift losses from the cooling tower, and 14,925 gpm for operation of the fish diversion system. Discharge flow from NMP2 ranges from 23,055 gpm to 35,040 gpm during operation.

The licensee estimates that cooling tower makeup water flow post-EPU would increase by approximately 2,000–2,500 gpm; from approximately 18,000 gpm to approximately 20,000 gpm. This increase represents consumptive use of water from Lake Ontario (*e.g.,* due to increased evaporative losses). This loss is not significant when compared to the large amount of water that routinely flows out of Lake Ontario (approximate long-term average of 107,700,000 gpm). Therefore, there would be no significant impact on surface water resources following implementation of the proposed EPU.

Aquatic Resources Impacts

The potential impacts to aquatic biota from the proposed action could include impingement, entrainment, and thermal discharge effects. NMP2 has a fish diversion system at the onshore facility to reduce potential impingement of fish on the intake screens. The proposed EPU is expected to result in a 2000–2,500 gpm increase in cooling tower makeup. However, this makeup water is drawn entirely from the plant's service water discharge, and service water intake flows would remain unchanged by the EPU. As a result, there would be no increase in cooling water withdrawn from the NMP2 intake structure. Therefore, there would be no increase in impingement from the proposed EPU and the increase in entrainment losses, if any, would be very small, and would remain consistent with the NRC's conclusion in the SEIS–24, that the aquatic impacts as a result of NMP2 operation during the term of license renewal would be small.

The issues of discharge water temperature and chemical discharges are regulated by the State of New York with limits specified in the State Pollutant Discharge Elimination System (SPDES) permit. According to the licensee, the temperature of the discharge water is expected to increase by a maximum of 2 °F as a result of the EPU. In addition, a modeling study performed by the licensee in 2007 of the thermal plume of NMP2 indicated only a minor increase in thermal discharge would be expected from the EPU. Technical reviews and analyses

performed by the licensee indicate that the combined service water and blowdown discharge from NMP2 would remain compliant with current limits in the SPDES permit for thermal and physical parameters during both normal operation and normal shutdown conditions.

The circulating water system and service water system for NMP2 are treated with biocides to control biofouling from zebra mussels (*Dreissena polymorpha*) and other organisms, and with other chemical additives to control scaling and corrosion of system components. The licensee's application notes that several of the chemicals used for the above treatments are subject to specific limits in the NMP2 SPDES permit.

Therefore, there would be no significant adverse impacts to the aquatic biota from entrainment, impingement, and from thermal discharges for the proposed action.

Terrestrial Resources Impacts

The NMPNS site consists of approximately 900 acres, with over 1 mile of shoreline on Lake Ontario. Approximately 188 acres are used for power generation and support facilities. Much of the remaining area is undeveloped, consisting largely of deciduous forest with some old field and shrub land areas that reflect continuing succession of old fields to secondary forest. As previously discussed in the land use and aesthetic section, the proposed action would not affect land use at NMP2. Therefore, there would be no significant impacts on terrestrial biota associated with the proposed action.

Threatened and Endangered Species Impacts

Animal species found on the NMP2 site are representative of those found within disturbed landscapes of the lower Great Lakes region, and include white-tailed deer and a variety of smaller mammals, reptiles and amphibians. Correspondence between the licensee and the U.S. Fish and Wildlife Service (FWS) in connection with the NMPNS license renewal environmental review indicated that no federally endangered, threatened, or candidate aquatic species are likely to reside in the vicinity of the NMP2 site. According to the licensee's application and information in the SEIS–24, with the exception of the Indiana bat (*Myotis sodalis*) and occasional transient individuals of the piping plover (*Charadrius melodus*) and the bald eagle (*Haliaeetus leucocephalus*) (now delisted), no other species listed by the FWS as endangered or threatened are likely to reside on the NMPNS site or along Nine Mile Point to the Clay transmission corridor. However, recent onsite surveys conducted by the licensee indicate that there is low likelihood of occurrence for Indiana bat and piping plover because there is no suitable habitat on the site or along the transmission corridor. Regardless, planned construction-related activities related to the proposed EPU primarily involve changes to existing structures, systems, and components internal to existing buildings, would not involve earth disturbance. While traffic and worker activity in the developed parts of the plant site during the 2012 refueling outage would be somewhat greater than a normal refueling outage, the potential impact on terrestrial wildlife would be minor and temporary.

Since there are no planned changes to the terrestrial wildlife habitat on the NMPNS site from the proposed EPU and the potential impacts from worker activity would be minor and temporary, there would be no significant impacts to any threatened or endangered species for the proposed action.

Historic and Archaeological Resources Impacts

As reported in the SEIS–24, the NRC reviewed historic and archaeological site files in New York, and confirmed that historic and archaeological resources have been identified in the vicinity of NMP2, but no archaeological and historic architectural sites have been recorded on the licensee's site. In addition, the New York State Historic Preservation Office confirmed that while there are no known archaeological sites within the plant site, the Preservation Office considers Nine Mile Point to be an area that is sensitive for cultural resources because of its environmental setting. However, as reported in the SEIS–24, a site visit performed by NRC staff in 2004 found the presence of archaeological remains associated with several mapped historic locations within the plant lands. For the proposed EPU, the licensee asserts that there would be no new land disturbance activities and there are no plans to construct new facilities or modify existing access roads, parking areas, or equipment lay-down areas. Therefore, there would be no significant impact from the proposed EPU on historic and archaeological resources at NMP2.

Socioeconomic Impacts

Potential socioeconomic impacts from the proposed EPU include temporary increases in the size of the workforce at NMP2 and associated increased demand for public services and housing in the region. The proposed EPU could also increase tax payments due to increased power generation.

Currently, there are approximately 1,000 full-time workers employed at NMPNS, residing primarily in Oswego County and Onondaga County, New York. During refueling outages approximately every 12 months at NMPNS (every 24 months for each unit) the number of workers at NMPNS increases by as many as 1,000 workers for 30 to 40 days.

The proposed EPU is expected to temporarily increase the size of the workforce at NMPNS during the spring 2010 and 2012 refueling outages. The greatest increase would occur during the spring 2012 outage when the majority of the EPU-related modifications would take place. Once completed, the size of the refueling outage workforce at NMPNS would return to normal levels and would remain relatively the same during future refueling outages. The size of the regular plant operations workforce would be unaffected by the proposed EPU.

Most of the EPU plant modification workers would be expected to relocate temporarily to Oswego and Onondaga counties, resulting in short-term increases in the local population along with increased demands for public services and housing. Because plant modification work would be short-term, most workers would stay in available rental homes, apartments, mobile homes, and camper-trailers. Therefore, a temporary increase in plant employment for a short duration would have little or no noticeable effect on the availability of housing in the region.

NMPNS currently pays annual real estate property taxes to the City of Oswego School District, Oswego County, and the Town of Scriba. The annual amount of property taxes paid by NMPNS could increase due to "incentive payments" should NMP2 megawatt production exceed negotiated annual benchmarks as power generation increases. Future property tax agreements with Oswego County, the Town of Scriba, and the City of Oswego could also take into account the increased value of NMP2 as a result of the EPU implementation and increased power generation.

Due to the short duration of EPU-related plant modification activities, there would be little or no noticeable effect on tax revenues generated by temporary workers residing in Oswego County and Onondaga County. Therefore, there would be no significant adverse socioeconomic impacts from EPU-related plant modifications and

operations under EPU conditions in the vicinity of NMP2.

Environmental Justice Impacts

The environmental justice impact analysis evaluates the potential for disproportionately high and adverse human health and environmental effects on minority and low-income populations that could result from activities associated with EPU operation at NMP2. Environmental effects may include biological, cultural, economic, or social impacts. Minority and low-income populations are subsets of the general public residing in the vicinity of NMP2, and all are exposed to the same health and environmental effects generated from activities at NMP2.

Environmental Justice Impact Analysis

The NRC staff considered the demographic composition of the area within a 50-mile (80-km) radius of NMP2 to determine the location of minority and low-income populations and whether they may be affected by the proposed action.

Minority populations in the vicinity of NMP2, according to the U.S. Census Bureau data for 2000, indicate that 11.8% of the population (approximately 908,000 individuals) residing within a 50-mile (80-km) radius of NMP2 identified themselves as minority individuals. The largest minority group was Black or African American (approximately 63,000 persons or 7.0%), followed by Hispanic or Latino (approximately 22,000 persons or about 2.4%). According to the U.S. Census Bureau, about 3.5% of the Oswego County population identified themselves as minorities, with persons of Hispanic or Latino origin comprising the largest minority group (1.3%). According to census data, the 3-year average estimate for 2006–2008 for the minority population of Oswego County, as a percent of total population, increased to 4.4%.

According to 2000 census data, approximately 19,600 families and 105,000 individuals (approximately 8.4 and 11.5%, respectively) residing within a 50-mi (80-km) radius of NMP2 were identified as living below the Federal poverty threshold in 1999. The 1999 Federal poverty threshold was $17,029 for a family of four.

According to census data in the 2006–2008 American Community Survey 3-Year Estimates, the median household income for New York was $55,401, while 13.8% of the State population and 10.5% of families were determined to be living below the Federal poverty threshold. Oswego County had a lower median household income average ($43,643) and higher percentages (16.0%) of individuals and families (11.2%) living below the poverty level, respectively.

Potential impacts to minority and low-income populations would mostly consist of environmental and socioeconomic effects (*e.g.,* noise, dust, traffic, employment, and housing impacts). However, noise and dust impacts would be short-term and limited to onsite activities. Minority and low-income populations residing along site access roads could experience increased commuter vehicle traffic during shift changes. Increased demand for inexpensive rental housing during the refueling outages that include EPU-related plant modifications could disproportionately affect low-income populations, however, due to the short duration of the EPU-related work and the expected availability of rental properties, impacts to minority and low-income populations would be short-term and limited.

Based on this information and the analysis of human health and environmental impacts presented in this EA, there would be no disproportionately high and adverse human health and environmental effects on minority and low-income populations residing in the vicinity of NMP2.

Non-Radiological Impacts Summary

As discussed above, the proposed EPU would not result in any significant non-radiological impacts. Table 1 summarizes the non-radiological environmental impacts of the proposed EPU at NMP2.

TABLE 1—SUMMARY OF NON-RADIOLOGICAL ENVIRONMENTAL IMPACTS

Land Use	No significant impact on land use conditions and aesthetic resources in the vicinity of NMP2.
Air Quality	Temporary short-term air quality impacts from vehicle emissions related to the workforce. No significant impacts to air quality.
Water Use	Water use changes resulting from the EPU would be relatively minor. No significant impact on groundwater or surface water resources.
Aquatic Resources	No significant impact to aquatic resources due to impingement, entrainment, or thermal discharge.
Terrestrial Resources	No significant impact to terrestrial resources.
Threatened and Endangered Species	No significant impact to Federally listed species.
Historic and Archaeological Resources	No significant impact to historic and archaeological resources on site or in the vicinity of NMP2.
Socioeconomics	No significant socioeconomic impacts from EPU-related temporary increase in workforce.
Environmental Justice	No disproportionately high and adverse human health and environmental effects on minority and low-income populations in the vicinity of NMP2.

Radiological Impacts

Radioactive Gaseous and Liquid Effluents, Direct Radiation Shine, and Solid Waste

Nuclear power plants use waste treatment systems to collect, process, recycle, and dispose of gaseous, liquid, and solid wastes that contain radioactive material in a safe and controlled manner within NRC and EPA radiation safety standards. Operation at the proposed EPU conditions would not require any physical changes to the gaseous, liquid, or solid waste systems.

Radioactive Gaseous Effluents

Radioactive gaseous wastes principally include radioactive gases extracted from the steam condenser offgas system and the turbine gland seal. The radioactive gaseous waste management system uses holdup (*i.e.,* time delay to achieve radioactive decay) and filtration (*i.e.,* high efficiency filters) to reduce the gaseous radioactivity that is released into the environment. The licensee's evaluation concluded that the proposed EPU would not change the radioactive gaseous waste licensing basis and the system's design criteria. In addition, the existing equipment and plant procedures that control radioactive releases to the environment will continue to be used to maintain radioactive gaseous releases within the dose limits of 10 CFR 20.1302, Appendix I to 10 CFR part 50, and 40 CFR part 190.

Radioactive Liquid Effluents

Radioactive liquid wastes include liquids from various equipment drains, floor drains, containment sumps, chemistry laboratory, laundry drains, and other sources. An evaluation performed by the licensee demonstrates that implementation of the proposed EPU would not significantly increase the inventory of liquid normally processed by the liquid waste management system. This conclusion is based on the fact that the radioactive liquid waste system functions are not changing and the volume inputs would increase less than 10%, which is not an appreciable increase when compared to the liquid radioactive waste system capacity. The proposed EPU would result in a small increase in the equilibrium radioactivity in the reactor coolant which in turn would impact the concentrations of radionuclides entering the waste disposal systems.

Since the liquid volume does not increase appreciably, and the radiological sources remain bounded by the existing design basis, the current design and operation of the radioactive liquid waste system will accommodate the effects of EPU with no changes. In addition, the existing equipment and plant procedures that control radioactive releases to the environment will continue to be used to maintain radioactive liquid releases within the dose limits of 10 CFR 20.1302, Appendix I to 10 CFR part 50, and 40 CFR part 190.

Occupational Radiation Dose at EPU Conditions

In-plant radiation levels and associated occupational doses are controlled by the NMPNS Radiation Protection Program to ensure that internal and external radiation exposures to station personnel, contractor personnel, and the general population will be as low as is reasonably achievable (ALARA). For plant workers, the program monitors radiation levels throughout the plant to establish work controls, training, temporary shielding, and protective equipment requirements so that worker doses will remain within the dose limits of 10 CFR part 20 and ALARA.

The licensee's analysis indicate that in-plant radiation sources are anticipated to increase linearly with the increase in core power level (approximately 15% greater than the current licensed thermal power), except for nitrogen-16 (N–16) which is expected to increase approximately 30% due to increased steam flow and pressure in some components. Shielding is used throughout NMP2 to protect personnel against radiation emanating from the reactor and the auxiliary systems.

For conservatism, many aspects of NMP2 were originally designed for higher-than-expected radiation sources. NMPNS has determined that the current shielding design is adequate for the increase in radiation levels that may occur after the proposed EPU. Thus, the increase in radiation levels would not affect radiation zoning or shielding in the various areas of NMP2 because of the conservatism in the original design. Therefore, no changes are planned to the plant's shielding design and the ALARA program would continue in its current form.

Offsite Doses at EPU Conditions

The primary sources of normal operation offsite dose to members of the public at NMP2 are airborne releases from the Offgas System and direct dose from gamma radiation (skyshine) from the plant turbines containing radioactive material. During reactor operation, the reactor coolant passing through the core region becomes radioactive as a result of nuclear reactions. The dominant radiation source in the coolant passing through the turbine is N–16. The activation of the water in the reactor core is in approximate proportion to the increase in thermal power. However, while the magnitude of the radioactive source production increases in proportion to reactor power, the concentration in the steam remains nearly constant. This is because the increase in activation production is balanced by the increase in steam flow. The implementation of the proposed EPU could increase components of offsite dose due to releases of gaseous and liquid effluents by up to 20%. The component of offsite dose due to N–16 radiation emanating from the turbine could increase by as much as 30%. The licensee calculated that the increase in offsite dose from radioactive gaseous and liquid effluents, and skyshine from NMP2 under EPU operating conditions is expected to be less than 1 mrem (0.01mSv) per year. The historical (2003–2007) annual doses to a member of the public located outside the NMPNS site boundary from NMP2's radioactive emissions ranged from 0.18 mrem (0.0018 mSv) to 2.01 mrem (0.0201 mSv). These doses are well below the 10 CFR part 20 annual dose limit of 100 mrem (1.0 mSv) for members of the public and the EPA's 40 CFR part 190 annual dose standard of 25 mrem (0.25 mSv). Therefore, while the offsite dose to members of the public under EPU conditions is expected to increase slightly, it is expected to remain within regulatory limits. Based on the above, the potential increase in offsite radiation dose to members of the public would not be significant.

Radioactive Solid Wastes

The radioactive solid waste system collects, processes, packages, monitors, and temporarily stores radioactive dry and wet solid wastes prior to shipment offsite for disposal. Solid radioactive waste streams include filter sludge, spent ion exchange resin, and dry active waste (DAW). DAW includes paper, plastic, wood, rubber, glass, floor sweepings, cloth, metal, and other types of waste routinely generated during site maintenance and outages. The EPU does not generate a new type of waste or create a new waste stream. Therefore, the types of radioactive waste that require shipment are unchanged. The licensee's evaluation indicates that the effect of the EPU on solid waste is primarily from increased input to the reactor water cleanup system (WCS) and condensate demineralizers. The increased use of the WCS and condensate demineralizers is expected to increase the volume of spent ion exchange resins and filter sludge. The licensee's analysis indicates that the estimated increase in solid radioactive waste is approximately 7%, and can be handled by the existing solid waste management system without modification. Therefore, the impact from the increased volume of solid radioactive waste generated under conditions of the proposed EPU would not be significant.

Spent Nuclear Fuel

Spent fuel from NMP2 is stored in the plant's spent fuel pool. The additional energy requirements for the proposed EPU would be met by an increase in fuel enrichment, an increase in the reload fuel batch size, and/or changes in the fuel loading pattern to maintain the desired plant operating cycle length. NMP2 is currently licensed to use uranium-dioxide fuel that has a maximum enrichment of 4.95% by weight uranium-235. The typical average enrichment is approximately 4.20% by weight uranium-235. For the proposed action, the core design would use a somewhat higher fuel enrichment (4.36%), which remains within the licensed maximum enrichment. The EPU fuel batch size would increase from 276 bundles to 352 bundles. The licensee's fuel reload design goals would maintain the NMP2 fuel cycles within the limits bounded by the impacts analyzed in 10 CFR part 51, Table S–3—Table of Uranium Fuel

Cycle Environmental Data and Table S–4—Environmental Impact of Transportation of Fuel and Waste to and from One Light-Water-Cooled Nuclear Power Reactor. Therefore, there would be no significant impact resulting from spent nuclear fuel.

Postulated Design-Basis Accident Doses

Postulated design-basis accidents are evaluated by both the licensee and the NRC staff to ensure that NMP2 can withstand normal and abnormal transients and a broad spectrum of postulated accidents, without undue hazard to the health and safety of the public. The NRC staff previously evaluated and approved an amendment to the NMP2 license (Technical Specification Amendment No. 125, dated May 29, 2008, ADAMS Accession No. ML081230439) which permitted full implementation of the Alternative Source Term (AST) as described in NRC Regulatory Guide 1.183, "Alternative Radiological Source Terms for Evaluating Design Basis Accidents at Nuclear Power Reactors." The licensee's AST analysis was performed at the proposed EPU power level of 3,988 MWt so that the design-basis accident analyses would be applicable to the proposed EPU being evaluated here. In its approval of TS Amendment No. 125, the NRC staff concluded that (1) There is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendments will not be inimical to the common defense and security or to the health and safety of the public. Therefore, there would be no significant increase in the impact resulting from a postulated accident.

Radiological Impacts Summary

As discussed above, the proposed EPU would not result in any significant radiological impacts. Table 2 summarizes the radiological environmental impacts of the proposed EPU at NMP2.

TABLE 2—SUMMARY OF RADIOLOGICAL ENVIRONMENTAL IMPACTS

Radioactive Gaseous Effluents	Amount of additional radioactive gaseous effluents generated would be handled by the existing system.
Radioactive Liquid Effluents	Amount of additional radioactive liquid effluents generated would be handled by the existing system.
Occupational Radiation Doses	Occupational doses would continue to be maintained within NRC limits.
Offsite Radiation Doses	Radiation doses to members of the public would remain below NRC and EPA radiation protection standards.
Radioactive Solid Waste	Amount of additional radioactive solid waste generated would be handled by the existing system.
Spent Nuclear Fuel	Amount of additional spent nuclear fuel would be handled by the existing system.
Postulated Design-Basis Accident Doses	Calculated doses for postulated design-basis accidents would remain within NRC limits.

Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed EPU (*i.e.,* the "no-action" alternative). Denial of the application would result in no change in the current environmental impacts. However, if the EPU were not approved for NMP2, other agencies and electric power organizations may be required to pursue other means, such as fossil fuel or alternative fuel power generation, to provide electric generation capacity to offset future demand. Construction and operation of such a fossil-fueled or alternative-fueled plant may create impacts in air quality, land use, and waste management significantly greater than those identified for the proposed EPU at NMP2. Furthermore, the proposed EPU does not involve environmental impacts that are significantly different from those originally identified in the NMP2 FES and the SEIS–24.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the FES.

Agencies and Persons Consulted

In accordance with its stated policy, on March 2, 2010, the NRC staff consulted with the State of New York official regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the EA, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's application dated May 27, 2009, as supplemented on August 28 and December 23, 2009, and February 19, 2010.

Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible electronically from the ADAMS Public Electronic Reading Room on the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff at 1–800–397–4209, or 301–415–4737, or send an e-mail to *pdr.Resource@nrc.gov.*

DATES: The comment period expires May 10, 2010. Comments received after this date will be considered if it is practical to do so, but the Commission is only able to assure consideration of comments received on or before May 10, 2010.

ADDRESSES: Submit written comments to Chief, Rules and Directives Branch (RDB), TWB–05–B01M, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be faxed to the RDB at 301–492–3446.

SUPPLEMENTARY INFORMATION: The NRC is considering issuance of an amendment to Renewed Facility Operating License No. NPF–69 issued to Nine Mile Point Nuclear Station, LLC, for the operation of Nine Mile Point, Unit No. 2, located in Oswego, New York.

FOR FURTHER INFORMATION CONTACT: Richard V. Guzman, Office of Nuclear Reactor Regulation, Mail Stop O–8C2A, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by

telephone at (301) 415–1030, or by e-mail at *Richard.Guzman@nrc.gov.*

Dated at Rockville, Maryland, this 2nd day of April 2010.

For the Nuclear Regulatory Commission.

John P. Boska,

Acting Chief, Plant Licensing Branch I–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–7959 Filed 4–7–10; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 29202; 812–13687]

WNC Tax Credits 38, LLC, WNC Tax Credits 39, LLC, WNC Housing Tax Credits Manager, LLC and WNC & Associates, Inc.; Notice of Application

April 2, 2010.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application for an order under sections 6(c) and 6(e) of the Investment Company Act of 1940 (the "Act") granting relief from all provisions of the Act, except sections 37 through 53 of the Act and the rules and regulations under those sections other than rule 38a–1 under the Act.

Applicants: WNC Tax Credits 38, LLC ("Fund 38") and WNC Tax Credits 39, LLC ("Fund 39") (each a "Fund," and collectively, the "Funds"), WNC Housing Tax Credits Manager, LLC (the "Manager") and WNC & Associates, Inc. ("WNC & Associates").

Summary of the Application: Applicants request an order to permit each Fund to invest in limited liability companies that engage in the ownership and operation of apartment complexes for low and moderate income persons ("Apartment Complexes").

Filing Date: The application was filed on August 28, 2009, and amended on January 11, 2010, March 31, 2010, and April 1, 2010.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 26, 2010, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants, 17782 Sky Park Circle, Irvine, CA 92614.

FOR FURTHER INFORMATION CONTACT: Jean E. Minarick, Senior Counsel, (202) 551–6811, or Julia Kim Gilmer, Branch Chief, (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant by using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. Fund 38 and Fund 39 each was formed as a California limited company in 2008 and 2009, respectively. Each Fund will operate as a "two-tier" partnership, *i.e.,* each Fund will invest as a limited partner or member in other limited partnerships or limited liability companies that are characterized as partnerships for Federal income tax purposes ("Local Limited Partnerships"). The Local Limited Partnerships in turn will engage in the ownership and operation of Apartment Complexes expected to be qualified for the low income housing tax credit under the Internal Revenue Code of 1986, as amended. The Manager is a California limited liability company whose sole member and manager is WNC & Associates, a California corporation.

2. The objectives of each Fund are to provide current tax benefits in the form of (a) predictable stream of low income housing credits which investors may use to offset their Federal income tax liabilities and (b) tax losses.

3. Each Fund intends to conduct a private placement of its units of limited liability company member interest (the "Units") on a commencement date to be determined by the Manager. Each Fund's placement will be conducted as described in, and by means of a private placement memorandum, to be supplemented periodically with updated information for each Fund's placement (the "Memorandum"). Purchasers of Units in a Fund will be admitted as limited liability company members ("Members") of the issuing Fund. The Units will be offered pursuant to the exemption from the registration requirements of the Securities Act of 1933 (the "Securities Act"), provided by Rule 506 of Regulation D under the Securities Act. Each Member will be required, as condition to acceptance of a subscription, to qualify as an "accredited investor," as that term is defined in Rule 501(a) of Regulation D (an "Accredited Investor"). Each Fund intends to offer its Units at a price to be determined by the Manager prior to commencement of the Fund's placement. The minimum investment per Accredited Investor will be determined prior to commencement of the offerings. Each Fund will establish its minimum and maximum capitalization, and will disclose it by supplement to its Memorandum and deliver the supplement to all prospective Accredited Investors prior to subscription.

4. Each Fund will not accept any subscriptions for Units until the requested exemptive order is granted or the Fund receives an opinion of counsel that it is exempt from registration under the Act. Subscriptions for Units must be approved by the Manager. The Accredited Investor will execute representations confirming suitability and the basis for such suitability. In addition, transfers of Units will be permitted only if the transferee meets the same suitability standards as had been imposed on the transferor Member.

5. Although a Fund's direct control over the management of each Apartment Complex will be limited, the Fund's ownership of interests in Local Limited Partnerships will, in an economic sense, be the substantial equivalent of direct ownership of the Apartment Complexes themselves. A Fund normally will acquire at least a 90% interest in the profits, losses, and tax credits of the Local Limited Partnerships. However, in certain cases, at the discretion of the Manager, the Fund may acquire a lesser interest in a Local Limited Partnership.

6. Each Fund will have certain voting rights with respect to each Local Limited Partnership. The voting rights will include the right to dismiss and replace the local general partner on the basis of performance, to approve or disapprove a sale or refinancing of the Apartment Complex owned by such Local Limited Partnership, to approve or disapprove the dissolution of the Local Limited Partnership, and to approve or disapprove amendments to the Local Limited Partnership agreement materially and adversely affecting the Fund's investment.

7. Each Fund will be controlled by the Manager, pursuant to an operating

agreement (the "Operating Agreement"). The Members of each Fund, consistent with their limited liability status, will not be entitled to participate in the control of the Fund's business operations. However, a majority-in-interest of the Members will have the right to amend the Operating Agreement of their Fund (subject to certain limitations) with the consent of the Manager, which shall not be unreasonably withheld, to dissolve the Fund with the consent of the Manager, which shall not be unreasonably withheld, and to remove any Manager and elect a replacement. In addition, under the Operating Agreement, each Member is entitled to review all books and records of the Member's Fund at any and all reasonable times.

8. Applicants state that the Operating Agreement and Memorandum of the Funds contain provisions to ensure fair dealing by the Manager with the Members. Applicants also state that all compensation to be paid to the Manager and its affiliates by a Fund is specified in the Operating Agreement and Memorandum, and no compensation will be payable to the Manager or any of its affiliates by the Fund unless so specified. Applicants believe that the fees and other forms of compensation that will be paid by each Fund to the Manager and its affiliates are fair and on terms no less favorable to the Fund than would be the case if such arrangements had been made with independent third parties.

9. During the offering and organizational phase, WNC Capital Corporation, an affiliate of the Manager, will receive a dealer-manager fee from each Fund for its services in managing a group of independent broker-dealers who will sell the Units. The Manager or an affiliate will also receive from each Fund a nonaccountable organizational and offering expense allowance. In exchange for this allowance, the Manager has agreed to pay all organizational and offering expenses of each Fund (excluding retail selling commissions, the dealer-manager fee, and the nonaccountable organizational and offering expense allowance). During its acquisition phase, each Fund will pay to the Manager or its affiliates an acquisition fee for analyzing and evaluating potential investments in Local Limited Partnerships and for various other services. The Manager or its affiliates will receive from each Fund a nonaccountable acquisition expense allowance in consideration of which the Manager or its affiliates will pay all acquisition expenses of each Fund. All fees and expenses paid to all persons in connection with the organization of each Fund, the offering of Units and the acquisition of Local Limited Partnership interests will not exceed an amount equal to 22% of the Fund's gross offering proceeds.

10. During the operating phase, the Manager will receive a yearly asset management fee from each Fund in an amount equal to 0.75% of the Fund's invested assets for services rendered by the Manager in connection with the administration of the affairs of the Fund and the management of the Fund's assets. During the liquidation phase, each Fund will pay the Manager or its affiliates a disposition fee in an amount of up to 3% of the gross sales price of an Apartment Complex or a Local Limited Partnership interest.

11. All proceeds of the private placement of a Fund's Units initially will be placed in an escrow account with U.S. Bank, National Association ("Escrow Agent"). Pending release of offering proceeds to the Fund, the Escrow Agent will deposit escrowed funds in accordance with instructions from time to time received from the Manager in short-term United States Government securities, securities issued or guaranteed by the United States Government, and certificates of deposit or time or demand deposits in commercial banks. Upon receipt of a prescribed minimum amount of gross operating proceeds for a Fund, funds in escrow will be released to the Fund and held by it pending investment in Local Limited Partnerships. Any of a Fund's offering proceeds available for investment in Local Limited Partnership interests that the Fund has not either invested or committed to invest within 24 months following the termination of its offering of Units will be distributed to investors pro rata as a return of capital.

12. If more than one entity that the General Partner or its affiliates advises or manages may invest in a particular investment opportunity, the decision as to the entity that will be allocated the investment will be based upon such factors as the effect of the acquisition on diversification of each entity's portfolio, the estimated income tax effects of the purchase on each entity, the amount of funds of each entity available for investment, and the length of time such funds have been available for investment.

Applicants' Legal Analysis

1. Applicants believe that the Funds will not be "investment companies" under sections 3(a)(1)(A) or 3(a)(1)(C) of the Act. If the Funds are deemed to be investment companies, however, applicants request an exemption under section 6(c) and 6(e) of the Act from all provisions of the Act, except sections 37 through 53 of the Act and the rules and regulations under those sections, except rule 38a–1 thereunder.

2. Section 3(a)(1)(A) of the Act provides that an issuer is an "investment company" if it is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities. Applicants believe that the Funds will not be investment companies under section 3(a)(1)(A) because each Fund will be in the business of investing in and being a beneficial owner of Apartment Complexes, not securities.

3. Section 3(a)(1)(C) of the Act provides that an issuer is an "investment company" if it is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire "investment securities" having a value exceeding 40% of the value of such issuer's total assets (exclusive of Government securities and cash items). Applicants state that although the Local Limited Partnership interests may be deemed "investment securities," they are not readily marketable, cannot be sold without severe adverse tax consequences, and have no value apart from the value of the Apartment Complexes owned by the Local Limited Partnerships.

4. Applicants believe that the two-tier structure is consistent with the purposes and criteria set forth in the Commission's release concerning two-tier real estate partnerships (the "Release").[1] The Release states that investment companies that are two-tier real estate partnerships that invest in limited partnerships engaged in the development and operation of housing for low and moderate income persons may qualify for an exemption from the Act pursuant to section 6(c). Section 6(c) provides that the Commission may exempt any person from any provision of the Act and any rule thereunder, if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 6(e) permits the Commission to require companies exempted from the registration requirements of the Act to comply with certain specified provisions of the Act as though the

[1] Investment Company Act Release No. 8456 (Aug. 9, 1974).

company were a registered investment company.

5. The Release lists two conditions, designed for the protection of investors, which must be satisfied by two-tier partnerships to qualify for the exemption under section 6(c). First, interests in the issuer should be sold only to persons for whom investments in limited profit, essentially tax-shelter, investments would not be unsuitable. Second, requirements for fair dealing by the general partner of the issuer with the limited partners of the issuer should be included in the basic organizational documents of the company.

6. Applicants represent that Units will be sold only to persons for whom investment in limited profit, essentially tax shelter, investments would be suitable. Applicants further state that the requirements for fair dealing by the Manager with the Members are included in the basic organizational documents of each Fund. Applicants assert, among other things, that the suitability standards set forth in the application, the requirements for fair dealing provided by the Operating Agreement, and pertinent governmental regulations imposed on each Local Limited Partnership by various Federal, state, and local agencies provide protection to Accredited Investors in Units. In addition, applicants assert that the requested exemption is both necessary and appropriate in the public interest.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–7978 Filed 4–7–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. PA–42; File No. S7–07–10]

Privacy Act of 1974: Systems of Records

AGENCY: Securities and Exchange Commission.

ACTION: Notice of revised system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Securities and Exchange Commission ("Commission" or "SEC") proposes to revise a Privacy Act system of records: "Pay and Leave System (SEC–15)". The revisions reflect changes that have occurred since the notice was last published in the **Federal Register** Volume 64, Number 236 on Thursday, December 9, 1999.

DATES: The proposed changes will become effective May 18, 2010 unless further notice is given. The Commission will publish a new notice if the effective date is delayed to review comments or if changes are made based on comments received. To be assured of consideration, comments should be received on or before May 10, 2010.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/other.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number S7–07–10 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–07–10. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site *http://www.sec.gov/rules/other.shtml*). Comments are available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Barbara A. Stance, Chief Privacy Officer, Office of Information Technology, 202–551–7209.

SUPPLEMENTARY INFORMATION: The Commission proposes to revise the Privacy Act system of records "Pay and Leave System" (SEC–15)." The revisions reflect changes that have occurred since the notice was last published and will update the system name, system location, categories of individuals covered by the system, categories of records in the system, routine uses of records maintained in the system, retrievability of records, records' safeguards, retention and disposition of records, system manager and address, notification procedures, record access procedures, contesting records procedures, and record source categories.

The Commission has submitted a report of the revised system of records to the appropriate Congressional committees and to the Director of the Office of Management and Budget ("OMB") as required by 5 U.S.C. 552a(r) (Privacy Act of 1974) and guidelines issued by OMB on December 12, 2000 (65 FR 77677).

Accordingly, the Commission is revising the system of records to read as follows:

SEC–15

SYSTEM NAME:

Payroll, Attendance, Retirement and Leave Records.

SYSTEM LOCATION:

1. Payroll files, retirement case files, time and attendance reports, and service history files: SEC, 100 F Street, NE., Washington, DC 20549;

2. Notices of personnel action and other pay-related records: Department of the Interior, National Business Center, Payroll Operations Division, Mail Stop D–2662, 7301 West Mansfield Avenue, Lakewood, CO 80235–2230; and

3. Retired personnel files: National Archives and Records Administration, National Personnel Records Center (Civilian Personnel Records Center), 111 Winnebago Street, St. Louis, MO 63118.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and present employees, interns, fellows, volunteers and persons who work at the SEC under the Intergovernmental Personnel Act (employees).

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include, but are not limited to: employee name, address, phone number, Social Security number, organization code, pay rate, salary, grade, length of service, pay and leave records, source documents for posting time and leave attendance, and deductions for Medicare, Old Age, Survivors, and Disability Insurance (OASDI, also known as Social Security), bonds, Federal Employee Group Life Insurance (FEGLI), union dues, taxes, allotments, quarters, retirement, charities, Federal and commercial health benefits, Flexible Spending Account, Long Term Care Insurance, Thrift Savings Plan contributions, award, shift schedules, and pay differential, tax lien data, wage garnishments. The payroll, retirement and leave records described in this

notice form a part of the information contained in the Department of the Interior's integrated Federal Personnel and Payroll System (FPPS). Personnel records contained in the FPPS are covered under the government-wide system of records notice published by the Office of Personnel Management (OPM/GOVT–1) and Commission's system of records notice, SEC–39, Personnel Management Employment and Staffing Files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 302; 31 U.S.C. 3512.

PURPOSE(S):

The primary uses of the records are for the Commission's fiscal operations for payroll, time and attendance, leave, insurance, tax, retirement, qualifications, and benefits; to prepare related reports to other Federal agencies including the Department of Treasury and the Office of Personnel Management; and to locate SEC employees and determine such matters as their period of service, type of leave, qualifications, benefits, and pay.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To the National Business Center of the U.S. Department of the Interior.

2. To any Federal, state, or local government compiling tax withholding, retirement contributions, or allotments to charities, labor unions, wage garnishments, and other authorized recipients.

3. To any Federal governmental authority or its agents investigating (a) a violation or potential violation of a statute, rule, regulation, or order, or (b) an employee's grievance or complaint.

4. To any member of the public for employment verification at an employee's written request.

5. To any judgment creditor for the purpose of wage garnishment.

6. To any arbitrator under a negotiated labor agreement.

7. To the General Accountability Office, the Office of Management and Budget, and other Federal agencies to support payments of salaries and benefits to SEC employees.

8. To the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, the Federal Parent Locator System and the Federal Tax Offset System to (a) Locate individuals, (b) identify income sources, (c) establish paternity, (d) verify social security numbers or employment, (e) issue, modify, or enforce orders of support, or (f) administer the Federal Earned Income Tax Credit Program.

9. To a Congressional office in response to an inquiry from that Congressional office made at the request of the individual to whom the record pertains.

10. To produce summary descriptive statistics and analytical studies, as a data source for management information, in support of the function for which the records are collected and maintained or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act.

11. To interns, grantees, experts, contractors and others who have been engaged by the Commission to assist in the performance of a service related to this system of records and who need access to the records for the purpose of assisting the Commission in the efficient administration of its programs, including by performing clerical or stenographic functions, or by reproduction of records by electronic or other means. Recipients of these records shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

12. When (a) It is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Commission 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 Commission or another agency or entity) that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

13. To a commercial contractor in connection with benefit programs administered by the contractor on the Commission's behalf, including, but not limited to, supplemental health, dental, disability, life and other benefit programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in electronic and paper format. Electronic records are stored in computerized databases, on computer disc and/or other electronic media. Paper records are stored in locked file rooms and/or file cabinets.

RETRIEVABILITY:

These records may be retrieved by identifiers including, but not limited to, individual's name, an employee's name or social security number, birthday, and organizational code.

SAFEGUARDS:

Records are safeguarded in a secured environment. Buildings where records are stored have security cameras and 24 hour security guard service. Access is limited to those personnel whose official duties require access. Paper records are maintained in limited access areas during duty hours and in locked file cabinets and/or locked offices or file rooms at all other times. Computerized records are safeguarded through use of access codes and information technology security. Contractors and other recipients providing services to the Commission shall be required to comply with the Privacy Act and applicable agency rules and regulations issued under the Act.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with records schedules of the United States Securities and Exchange Commission and as approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Executive Director, Office of Human Resources, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

NOTIFICATION PROCEDURE:

All requests to determine whether this system of records contains a record pertaining to the requesting individual should be directed to the FOIA/PA Officer, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–5100.

RECORD ACCESS PROCEDURE:

Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records should contact the FOIA/Privacy Act Officer, Securities and

Exchange Commission, 100 F Street, NE., Washington, DC 20549–5100.

CONTESTING RECORD PROCEDURES:

See Record Access Procedures above.

RECORD SOURCE CATEGORIES:

Records source is from individuals on whom the records are maintained, official personnel records of individuals on whom the records are maintained, time and attendance records, withholding certificates, third-party benefit providers, and other pay-related records prepared by the individual or the Office of Human Resources.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

By the Commission.

Dated: April 2, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–7942 Filed 4–7–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61825; File No. SR–ISE–2010–23]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amending the Direct Edge ECN Fee Schedule

April 1, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 24, 2010, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Direct Edge ECN's ("DECN") fee schedule for ISE Members[3] to (i) reflect pass through charges of other market centers; and (ii) make typographical and clarifying changes. All of the changes described herein are applicable to ISE Members.

All of the changes described herein are applicable to ISE Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.ise.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

DECN, a facility of ISE, operates two trading platforms, EDGX and EDGA.[4]

In SR–ISE–2009–57,[5] the Exchange adopted a fee of $0.0024 per share for securities priced at or above $1.00 which add liquidity to LavaFlow ECN ("LavaFlow") and are routed from either EDGX or EDGA. Such a strategy is deemed a ROLF routing strategy, which is a destination specific routing strategy that will first sweep the EDGA or EDGX order book before being delivered to LavaFlow. A conforming amendment was made to the fee schedule to yield an "M" flag to account for this fee. Conversely, for liquidity that is routed through either EDGA or EDGX and removes liquidity from LavaFlow, the Exchange adopted a fee for ISE members of $0.0029 per share for securities priced at or above $1.00. Such situation will yield a flag of "U." However, if an ISE member posts an average of 50,000 shares or more using a ROLF routing strategy, yielding flag M, then such ISE member's fee, when removing liquidity from LavaFlow, will decrease to $0.0022 per share and yield flag U.

First, because the Exchange proposes to pass through to Exchange members the actual transaction fees assessed by away markets, the Exchange is proposing to amend its fees schedule to reflect LavaFlow's increase in fees. Effective March 1, 2010, LavaFlow increased its fees and thresholds for meeting the above-described tier. Members that remove liquidity from LavaFlow if the Member's attributable MPID executes a minimum of 100,000 shares (instead of 50,000 shares currently) average daily volume using strategy ROLF (yielding Flag M) will now be charged $0.0023 per share (instead of $0.0022 per share currently). The Exchange is proposing to pass through this change to its members by reflecting it in footnote 6 on the fee schedule.

Secondly, effective April 1, 2010, the Nasdaq Stock Market updated its transaction fee schedule to introduce a unified removal rate ($0.0030 per share executed) for all U.S. equities, across Tapes A, B, and C.[6] As a result of this proposed change, the Exchange is proposing to make a conforming change to delete footnote number 8 on the "2" flag and re-number it as footnote number 7 since the Nasdaq Stock Market no longer differentiates its removal rate across Tapes A, B, and C.

Finally, the Exchange proposes to make the following typographical and clarifying changes to the schedule: (i) On flag H, for EDGA, 0.001 is proposed to be changed to read "0.001*0*" to conform the numbering with the other fees on the schedule (emphasis added); (ii) in footnote number 6, delete an additional parenthesis at the end of the phrase "(yielding Flag U)".

The changes discussed in this filing will become operative on April 1, 2010.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[7] in general, and furthers the objectives of Section 6(b)(4),[8] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. ISE notes that DECN operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] References to ISE Members in this filing refer to DECN Subscribers who are ISE Members.

[4] This fee filing relates to the trading facility operated by ISE and not EDGA Exchange, Inc. and EDGX Exchange, Inc. Direct Edge ECN LLC (EDGA and EDGX) will cease to operate in its capacity as an electronic communications network following the commencement of operations of EDGA Exchange, Inc. and EDGX Exchange, Inc. as national securities exchanges.

[5] *See* Securities Exchange Act Release No. 60442 (August 5, 2009), 74 FR 40249 (August 11, 2009) (SR–ISE–2009–57).

[6] *See* Equity Trader Alert 2010–12 (effective April 1, 2010).

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

excessive. The proposed rule change reflects a competitive pricing structure designed to incent market participants to direct their order flow to DECN. Finally, the Exchange believes that the proposed rates are equitable in that they apply uniformly to all Members and provide higher rebates for higher volume thresholds, resulting from lower administrative costs. ISE believes the fees and credits remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to those members that opt to direct orders to DECN rather than competing venues.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Act [9] and Rule 19b–4(f)(2) [10] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–ISE–2010–23 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2010–23. 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,[11] all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2010–23 and should be submitted on or before April 29, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–7973 Filed 4–7–10; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 19b–4(f)(2).

[11] The text of the proposed rule change is available on ISE's Web site at *http://www.ise.com,* on the Commission's Web site at *http://www.sec.gov,* at ISE, and at the Commission's Public Reference Room.

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61829; File No. SR–BX–2010–023]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Market Maker Quoting Obligations

April 1, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on March 26, 2010, NASDAQ OMX BX, Inc. (the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter VI, Section 6 (Market Maker Quotations) of the Rules of the Boston Options Exchange Group, LLC ("BOX"). The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room, on the Exchange's Internet Web site at *http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/,* and on the Commission's Web site at *http://www.sec.gov/.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to update certain quoting obligations of Market Makers.

Presently, a Market Maker must participate in the pre-opening phase and thereafter make markets such that on a daily basis a Market Maker posts quotes at least eighty percent (80%) of the time an appointed options class is open for trading, for at least ninety percent (90%) of the classes to which the Market Maker is appointed and for at least sixty percent (60%) of the time in each of its appointed classes during the time that the class(es) are open for trading.[5]

Due to the fact that all Market Makers on BOX will still have some minimum quoting obligations and that Market Makers are not the only source of liquidity on BOX (*e.g.,* OFP and Public Customer Orders also provide liquidity), the Exchange no longer believes that it is necessary for a Market Maker to be held to this level of quoting to ensure adequate liquidity on BOX in a particular class. Therefore, the Exchange is proposing to update Chapter VI, Section 6(d) of the BOX Rules such that during continuous trading, on a daily basis, a Market Maker must post quotes at least sixty percent (60%) of the time that its appointed class(es) are open for trading. These obligations will apply to all of the Market Maker's appointed classes collectively, rather than on a class-by-class basis.

The Exchange notes that no changes are being proposed regarding Market Makers' other obligations, including obligations to participate in the pre-opening phase. Furthermore, a Market Maker may continue to be called upon by an Options Official[6] to submit a single valid two-sided quote in one or more of the series of an options class to which the Market Maker is appointed whenever, in the judgment of such official, it is necessary to do so in the interest of fair and orderly markets.[7] Because the Market Makers' remaining obligations, including those mentioned above, will continue, the Exchange believes this justifies any benefits they receive due to their appointment as Market Maker on BOX.

The Exchange also seeks to set forth certain exemptions within Chapter VI, Section 6(d). Specifically, when determining if a Market Maker has met its 60% quoting obligation, the Exchange would not consider the duration of any periods where a technical failure of the BOX Trading Host prevents the Market Maker from providing continuous quotations. Also, an Options Official of the Exchange would retain the discretion to consider other exceptions to this continuous electronic quoting obligation based on demonstrated legal or regulatory requirements or other mitigating circumstances.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[8] in general, and Section 6(b)(5) of the Act,[9] in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed changes will more closely align the quoting obligations of Market Makers with the levels the Exchange deems necessary to help ensure that there is adequate liquidity on BOX in each of the classes to which a particular Market Maker is appointed. Furthermore, the proposed changes will result in such quoting obligations being closer to the quoting obligations in effect on another options exchange.[10]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

This proposed rule change is filed pursuant to paragraph (A) of section 19(b)(3) of the Exchange Act[11] and Rule 19b-4(f)(6) thereunder.[12]

This proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

The Exchange notes that the changes proposed herein will align the quoting percentage obligations of Market Makers, as well as exceptions thereto, with those of market makers on NYSE Arca.[13] In addition, the Market Makers' other remaining obligations are substantially similar to those for market makers on NYSE Arca. The Exchange believes that this proposed rule change, which is essential for competitive purposes and to promote a free and open market for the benefit of investors, does not raise any new, unique or substantive issues from those attendant with the approved NYSE Arca rule.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–BX–2010–023 on the subject line.

[5] *See* Chapter VI, Section 6(d) of the BOX Rules.

[6] The term "Options Official" means an officer of BOX Regulation vested by the BOX Regulation Board with certain authority to supervise option trading on BOX. *See* BOX Rules Chapter I, Section 1(a)(44).

[7] *See* BOX Rules Chapter VI, Section 6(b)(iv).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *See* Rule 6.37B (Market Maker Quotations-OX) of the Rules of NYSE Arca, Inc ("NYSE Arca").

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, as required under Rule 19b–4(f)(6)(iii), the Exchange has submitted to the Commission written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[13] *See supra* note 10.

Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2010–023. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–BX–2010–023 and should be submitted on or before April 29, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–7976 Filed 4–7–10; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61826; File No. SR–ISE–2010–24]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change Relating to the Amounts That Direct Edge ECN, in Its Capacity as an Introducing Broker for Non-ISE Members, Passes Through to Such Non-ISE Members

April 1, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 24, 2010, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and is approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the amounts that Direct Edge ECN ("DECN"), in its capacity as an introducing broker for non-ISE Members, passes through to such non-ISE Members.

The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.ise.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

DECN, a facility of ISE, operates two trading platforms, EDGX and EDGA.[3] On March 24, 2010, the ISE filed for immediate effectiveness a proposed rule change to amend Direct Edge ECN's ("DECN") fee schedule for ISE Members[4] to: (i) Reflect pass through charges of other market centers;[5] and (ii) make typographical and clarifying changes.[6] The changes made pursuant

[3] This fee filing relates to the trading facility operated by ISE and not EDGA Exchange, Inc. and EDGX Exchange, Inc. Direct Edge ECN LLC (EDGA and EDGX) will cease to operate in its capacity as an electronic communications network following the commencement of operations of EDGA Exchange, Inc. and EDGX Exchange, Inc. as national securities exchanges.

[4] References to ISE Members in this filing refer to DECN Subscribers who are ISE Members.

[5] In SR–ISE–2009–57, the Exchange adopted a fee of $0.0024 per share for securities priced at or above $1.00 which add liquidity to LavaFlow ECN ("LavaFlow") and are routed from either EDGX or EDGA. Such a strategy is deemed a ROLF routing strategy, which is a destination specific routing strategy that will first sweep the EDGA or EDGX order book before being delivered to LavaFlow. A conforming amendment was made to the fee schedule to yield an "M" flag to account for this fee. Conversely, for liquidity that is routed through either EDGA or EDGX and removes liquidity from LavaFlow, the Exchange adopted a fee for ISE members of $0.0029 per share for securities priced at or above $1.00. Such situation yields a flag of "U." However, if an ISE member posts an average of 50,000 shares or more using a ROLF routing strategy, yielding flag M, then such ISE member's fee, when removing liquidity from LavaFlow, decreased to $0.0022 per share and yielded flag U. *See* Securities Exchange Act Release No. 60442 (August 5, 2009), 74 FR 40249 (August 11, 2009) (SR–ISE–2009–57).

In SR–ISE–2010–23, because the Exchange passed through to Exchange members the actual transaction fees assessed by away markets, the Exchange amended its fees schedule to reflect LavaFlow's increase in fees. Effective March 1, 2010, LavaFlow increased its fees and thresholds for meeting the above-described tier. Members that remove liquidity from LavaFlow if the Member's attributable MPID executes a minimum of 100,000 shares (instead of 50,000 shares) average daily volume using strategy ROLF (yielding Flag M) are now charged $0.0023 per share (instead of $0.0022 per share). The Exchange amended its fee schedule to pass through this change to its members by reflecting it in footnote 6 on the fee schedule.

Secondly, effective April 1, 2010, the Nasdaq Stock Market updated its transaction fee schedule to introduce a unified removal rate ($0.0030 per share executed) for all U.S. equities, across Tapes A, B, and C.[5] As a result of this change, the Exchange made a conforming change to delete footnote number 8 on the "2" flag and re-number it as footnote number 7 since the Nasdaq Stock Market no longer differentiates its removal rate across Tapes A, B, and C. *See* Equity Trader Alert 2010–12 (effective April 1, 2010).

[6] In SR–ISE–2010–23, the Exchange made the following typographical and clarifying changes to the fee schedule: (i) on flag H, for EDGA, 0.001 was changed to read "0.0010" to conform the numbering

Continued

to SR–ISE–2010–23 became operative on April 1, 2010.

In its capacity as a member of ISE, DECN currently serves as an introducing broker for the non-ISE Member subscribers of DECN to access EDGX and EDGA. DECN, as an ISE Member and introducing broker, receives rebates and is assessed charges from DECN for transactions it executes on EDGX or EDGA in its capacity as introducing broker for non-ISE Members. Since the amounts of such rebates and charges were changed pursuant to SR–ISE–2010–23, DECN wishes to make corresponding changes to the amounts it passes through to non-ISE Member subscribers of DECN for which it acts as introducing broker. As a result, the per share amounts that non-ISE Member subscribers receive and are charged will be the same as the amounts that ISE Members receive and are charged.

ISE is seeking accelerated approval of this proposed rule change, as well an effective date of April 1, 2010. ISE represents that this proposal will ensure that both ISE Members and non-ISE Members (by virtue of the pass-through described above) will in effect receive and be charged equivalent amounts and that the imposition of such amounts will begin on the same April 1, 2010 start date.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[7] in general, and furthers the objectives of Section 6(b)(4),[8] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. In particular, this proposal will ensure that dues, fees and other charges imposed on ISE Members are equitably allocated to both ISE Members and non-ISE Members (by virtue of the pass-through described above).

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–ISE–2010–24 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2010–24. 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,[9] all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2010–24 and should be submitted on or before April 29, 2010.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[10] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(4)[11] of the Act, which requires that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using its facilities.

As described more fully above, ISE recently amended DECN's fee schedule for ISE Members pursuant to SR–ISE–2010–23 (the "Member Fee Filing"). The fee changes made pursuant to the Member Fee Filing became operative on April 1, 2010. DECN receives rebates and is charged fees for transactions it executes on EGDX or EDGA in its capacity as an introducing broker for its non-ISE member subscribers. The current proposal, which will apply retroactively to April 1, 2010, will allow DECN to pass through the revised rebates and fees to the non-ISE member subscribers for which it acts an introducing broker. The Commission finds that the proposal is consistent with the Act because it will provide rebates and charge fees to non-ISE member subscribers that are equivalent to those established for ISE member subscribers in the Member Fee Filing.[12]

ISE has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of notice of filing thereof in the **Federal Register.** As discussed above, the proposal will allow DECN to pass through to non-ISE member subscribers the revised rebate and fees established for ISE member subscribers in the Member Fee Filing, resulting in

with the other fees on the schedule (emphasis added); and (ii) in footnote number 6, the Exchange deleted an additional parenthesis at the end of the phrase "(yielding Flag U)."

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

[9] The text of the proposed rule change is available on ISE's Web site at *http://www.ise.com,* on the Commission's Web site at *http://www.sec.gov,* at ISE, and at the Commission's Public Reference Room.

[10] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78f(b)(4).

[12] *Id.*

equivalent rebates and fees for ISE member and non-member subscribers. In addition, because the proposal will apply the revised rebates and fees retroactively to April 1, 2010, the revised rebates and fees will have the same effective date, thereby promoting consistency in the DECN's fee schedule. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act, for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–ISE–2010–24) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–7975 Filed 4–7–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61834; File No. SR–BATS–2010–006]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend BATS Rule 11.9(c)(12), entitled "Destination Specific Order"

April 2, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 30, 2010, BATS Exchange, Inc. (the "Exchange" or "BATS") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend BATS Rule 11.9(c)(12), entitled "Destination Specific Order."

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* on the Commission's Web site at *http://www.sec.gov,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to provide an additional option to Users of the Exchange with respect to the designation of a "Destination Specific Order". Destination Specific Orders are market or limit orders that are routed by BATS to an away trading center after first being exposed to the BATS order book ("BATS Book"). As currently written, the Rule 11.9(c)(12) requires the specification of a particular away trading center to which an order will route after checking the BATS Book. Accordingly, BATS currently offers Users options to route to a single trading center designated by the User after first being exposed to the BATS Book. For instance, a User can currently send an order that first checks the BATS Book for liquidity and then routes to the New York Stock Exchange. The Exchange also currently offers Users with the option to send a "Modified Destination Specific Order," defined in BATS Rule 11.9(c)(13), which routes to one or more away trading centers without first checking the BATS Book. The only form of Modified Destination Specific Order currently offered by the Exchange routes to multiple Alternative Trading Systems disclosed by the Exchange prior to checking the BATS Book (referred to by the Exchange as a "Dark Scan" order). Although the identity of the Alternative Trading Systems to which a Dark Scan order may route is disclosed to Exchange Users, Users cannot designate the specific Alternative Trading System or Systems, but rather, rely on the Exchange's smart order router to determine the Alternative Trading System or Systems to which the order will be routed and the order of such routing.

The proposed rule change is being submitted by the Exchange so that BATS can offer Users the additional option to designate an order to route to various undisclosed Alternative Trading Systems selected by the Exchange after first being exposed to the BATS Book (a "BATS + DART Order"). Accordingly, as amended, a User will be able to designate an order that will first check the BATS Book for liquidity and then be routed to one or to multiple Alternative Trading Systems with which the Exchange has connections. Similar to a Dark Scan order, a User will not be able to designate any specific Alternative Trading System or Systems to which the order will be routed, but rather, the Exchange will make the routing decisions with respect to any BATS + DART Order that is not filled on the Exchange. Orders that are not executed in full after routing away would continue to be processed by the Exchange as described in BATS Rule 11.13(a)(2).

The Exchange is not proposing at this time to add functionality that would allow Users to designate multiple specific venues to which an order will route. Rather, a Destination Specific Order will continue to refer to an order that first checks the Exchange for liquidity and then routes to a specific venue or venues, with the only choice of multiple venues being the undisclosed list of Alternative Trading Systems offered through the DART routing program. Users that wish to have the Exchange first attempt to execute an order on the BATS Book and, if not executed, then route to multiple different venues, including Alternative Trading Systems, can use the Exchange's general best execution routing strategies, DART and CYCLE, but cannot specifically identify the venues to which the Exchange will route.

As occurs today, the routing performed in connection with this proposed change will be conducted by an affiliate of the Exchange, BATS

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[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

Trading, Inc. (the "Outbound Router"), which is regulated as a facility of the Exchange (as defined in Section 3(a)(2) of the Act),[5] subject to Section 6 of the Act.[6] The role and functions of the Outbound Router are set forth in BATS Rule 2.11, which has previously been approved by the Commission. Routing of Destination Specific Orders under this proposed amendment will be subject to the same requirements as other orders routed by the Outbound Router, which are contained in Rule 2.11. Accordingly, the Exchange believes that routing of Destination Specific Orders under this proposed amendment continues to be consistent with the previously approved functions of the Outbound Router, and the Exchange does not believe that such functions are expanded through this proposed amendment.

2. Statutory Basis

Approval of the rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[7] In particular, the proposed change is consistent with Section 6(b)(5) of the Act,[8] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. Specifically, the Exchange believes that the proposed amendment to the Destination Specific Order will enhance order execution opportunities for market participants by allowing such participants to access, at a potentially reduced fee, pools of liquidity in addition to orders resting on the Exchange.

A. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

B. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

[5] 15 U.S.C. 78c(a)(2).

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

i. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6)(iii) thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6)[11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that the proposed rule change does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition. In addition, the Exchange believes that the proposed rule change is consistent with other rules of the Exchange previously approved by the Commission, including (1) the Exchange's Modified Destination Specific Order[13] and (2) Rule 2.11, which governs the Outbound Router of the Exchange.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission believes that waiving the 30-day operative delay will immediately provide market participants with additional choices in order execution and access to additional pools of liquidity. For these reasons, the Commission designates the proposed rule change as operative upon filing.[14]

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] *See* BATS Rule 11.9(c)(13).

[14] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

ii. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–BATS–2010–006 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2010–006. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (http://www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make

available publicly. All submissions should refer to File Number SR–BATS–2010–006 and should be submitted on or before April 29, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–7977 Filed 4–7–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61828; File No. SR–Phlx–2010–52]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ OMX PHLX, Inc. Relating to Order Price Protection

April 1, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 31, 2010, NASDAQ OMX PHLX, Inc. ("Phlx" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 1080, Commentary .07, to provide for an Order Price Protection feature on Phlx XL, the Exchange's enhanced electronic trading platform for options.[3]

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In order to address risks to market participants of human error in entering orders at unintended prices, the Exchange has developed a program in the Phlx XL system known as Phlx XL Order Price Protection ("OPP"). OPP is a feature of Phlx XL that would prevent certain orders from executing or being placed on the book at prices outside pre-set standard limits. The Phlx XL system would reject such orders rather than executing them automatically. The operation of the Phlx XL system would be set forth in new Commentary .07 to Phlx Rule 1080, Phlx XL and Phlx XL II.

The OPP feature would prevent certain day limit, good til cancelled, immediate or cancel, and all-or-none orders at prices outside of certain pre-set limits from being accepted by the system. OPP would apply to all options, but would not apply to market orders, stop limit orders, Intermarket Sweep Orders, or complex orders. OPP would be operational each trading day after the opening until the close of trading, except during trading halts. The Exchange would also be able to temporarily deactivate OPP from time to time on an intraday basis at its discretion if it determined that volatility warranted deactivation. Members would be notified of intraday OPP deactivation due to volatility and any subsequent intraday reactivation by the Exchange through the issuance of system status messages.

The OPP will help users of Phlx XL control risk by checking each order, before it is accepted into the system, against certain parameters established by Rule 1080, Commentary .07. It would compare price instructions on the order against the current contra-side NBBO, and would automatically reject the order if it is priced outside the range established in Rule 1080, Commentary .07.

The range of permissible orders depends on whether the contra-side of an incoming order is greater than $1.00, or equal to or less than $1.00. If the NBBO on the contra-side of an incoming order were greater than $1.00, orders with a limit more than 50% through such contra-side NBBO would be rejected by Phlx XL upon receipt. For example, if the NBBO on the offer side were $1.10, an order to buy options for more than $1.65 would be rejected. Similarly, if the NBBO on the bid side were $1.10, an order to sell options for less than $0.55 would be rejected.

If the NBBO on the contra-side of an incoming order were less than or equal to $1.00, orders with a limit more than 100% through such contra-side NBBO would be rejected by Phlx XL upon receipt. For example, if the NBBO on the offer side were $1.00, an order to buy options for more than $2.00 would be rejected. However, if the NBBO of the bid side of an incoming order to sell were less than or equal to $1.00, the OPP limits set forth above would result in all incoming sell orders being accepted regardless of their limit. To illustrate, if the NBBO on the bid side were equal to $1.00, the OPP limits provide protection such that all orders to sell with a limit less than $0.00 would be rejected.

The Exchange anticipates implementing the OPP feature on May 1, 2010. The Exchange will notify members through the issuance of an Options Trader Alert when the feature becomes operational and the rule becomes operative.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [4] in general, and furthers the objectives of Section 6(b)(5) of the Act [5] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by mitigating risks to market participants of human error in entering orders at clearly unintended prices.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR–Phlx–2009–32).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [6] and Rule 19b–4(f)(6) [7] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2010–52 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2010–52. 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,[8] all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2010–52 and should be submitted on or before April 29, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–7941 Filed 4–7–10; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[8] The text of the proposed rule change is available on the Commission's Web site at *http://www.sec.gov/rules/sro.shtml.*

[9] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 6942]

Certifications Pursuant to Section 609 of Public Law 101–162

SUMMARY: On March 24, 2010, the Department of State notified Congress that it had withdrawn Mexico's certification under United States Public Law 101–162, Section 609, because Mexico's turtle excluder device (TED) program was not currently comparable to the United States program as required by the statute. Withdrawal of Mexican certification is primarily a compliance and environmental issue, but it does have trade implications and a prohibition on wild-caught shrimp imports will become effective on April 20, 2010. The United States government is providing the Government of Mexico with detailed technical recommendations and capacity-building support with a view to strengthening Mexico's sea turtle protection program. Both governments will continue to actively seek further engagement opportunities to ensure renewal of Mexican certification within the shortest period of time consistent with the requirements of U.S. law.

DATES: *Effective Date:* On Publication.

FOR FURTHER INFORMATION CONTACT: James J. Hogan, III, Office of Marine Conservation, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington, DC 20520–7818; telephone: (202) 647–2252.

SUPPLEMENTARY INFORMATION: Section 609 of Public Law 101–162 prohibits imports of certain categories of shrimp unless the President certifies to the Congress no later than May 1 of each year either: (1) That the harvesting nation has adopted a program governing the incidental capture of sea turtles in its commercial shrimp fishery comparable to the program in effect in the United States and has an incidental take rate comparable to that of the United States; or (2) that the fishing environment in the harvesting nation does not pose a threat of the incidental taking of sea turtles. The President has delegated the authority to make this certification to the Department of State. Revised State Department guidelines for making the required certifications were published in the **Federal Register** on July 2, 1999 (Vol. 64, No. 130, Public Notice 3086).

The Department of State has communicated this decision under section 609 to the Office of Field Operations of U.S. Customs and Border Protection.

This decision regarding withdrawal of Mexico's certification means that wild-harvest shrimp from Mexico's commercial trawl fisheries may not be imported into the United States until Section 609 certification for Mexico can be reinstated. A Department of State DS–2031 form signed by the exporter and importer must accompany all shrimp imports into the United States. If shrimp products are from a non-certified country, a government official of the harvesting nation must also certify the shrimp was caught without harming sea turtles. Users should check boxes 7(A)(1) for aquaculture shrimp products or 7(A)(3) for artisanal shrimp products. Users should note that exception 7(A)(2) on the form "Harvested Using TEDs," while a currently valid exception to the prohibition on imports from nations not

certified under Public Law 101–162, is only available once the Department of State determines in advance that a country wishing to use this exception has in place an enforcement and catch segregation system for making such individual shipment certifications. Presently, only Brazil and Australia have shown that they have a system in place for specific fisheries. Exception 7(A)(4) is for other case-by-case, special circumstance determinations made by the Department of State in advance. For these reasons exceptions 7(A)(2) and 7(A)(4) are not applicable to imports of wild-caught shrimp from Mexico.

Dated: April 1, 2010.

David A. Balton,

Deputy Assistant Secretary for Oceans and Fisheries, Department of State.

[FR Doc. 2010–7974 Filed 4–7–10; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice 6947]

Bureau of Oceans and International Environmental Scientific Affairs; Climate Action Report

AGENCY: Department of State.

ACTION: Notice; request for public comments.

SUMMARY: The purpose of this announcement is to notify interested members of the public of the opportunity to submit comments to the draft fifth National Communication on U.S. climate change actions for the United Nations Framework Convention on Climate Change (UNFCCC). In June 1992, the United States signed, and later ratified, the UNFCCC. Pursuant to the national communication reporting requirements under Articles 4.2 and 12 of the Convention and to guidelines later adopted by the UNFCCC Conference of the Parties (COP), the United States submitted the first U.S. Climate Action Report (CAR) to the UNFCCC Secretariat in 1994, and subsequent reports in 1997, 2002, and 2006. The U.S. Government has prepared an initial draft of the fifth National Communication for public review. This report reflects the U.S. Government commitment to the UNFCCC to transparently communicate U.S. actions and policies addressing climate change. See **SUPPLEMENTARY INFORMATION** for instructions on accessing the electronic version of the report, file format requirements for submitting comments, and other information about electronic filing.

DATES: The agency must receive comments on or before noon, May 6th, 2010.

ADDRESSES: Comments should be submitted via e-mail to *CAR5@state.gov*. Submit comments as an ASCII or word file avoiding the use of special characters and any form of encryption. Identify all comments and data in electronic form by the docket number [docket number].

Additionally, comments may be sent via postal mail to: CAR5 Comments, Department of State, Office of Global Change, Harry S. Truman Building, Room 2480, 2201 "C" Street, NW., Washington, DC 20520 or via fax to: (202) 647–0191. Comments will be due within 28 days of publication date. Persons with access to the Internet may also view and comment on this notice by going to the U.S. Government Regulations.Gov Web site at *http://www.regulations.gov/search/Regs/home.html#home.*

FOR FURTHER INFORMATION CONTACT: Mr. Eric J. Maltzer, Office of Global Change, U.S. Department of State at (202) 647–6740.

SUPPLEMENTARY INFORMATION: The draft Fifth CAR provides a detailed report on U.S. actions to address climate change. This report contains descriptions of specific measured and verified actions, outlines of broad policy initiatives, and summaries of activities conducted by the U.S. since the fourth CAR, principally at the federal level. It also explains U.S. Government efforts to increase scientific understanding of climate change, and provide foreign assistance to help other nations mitigate and adapt to the effects of climate change.

Table of Contents of the draft Fifth U.S. CAR

1. Introduction and overview
2. National circumstances
3. Greenhouse gas inventory
4. Policies and measures
5. Projected greenhouse gas emissions
6. Vulnerability assessment, climate change impacts, and adaptation measures
7. Financial resources and transfer of technology
8. Research and systematic observation
9. Education, training, and outreach

Public Input Process

This **Federal Register** notice solicits comments on the draft chapters listed above. The individual chapters are posted on the Internet and may be downloaded from the following Web site: *http://www.state.gov/g/oes/rls/rpts/car/index.htm.*

April 2, 2010.

Trigg Talley,

Director, Office of Global Change, Department of State.

[FR Doc. 2010–7972 Filed 4–7–10; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice 6949]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: American Youth Leadership Program

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C/PY–10–41.

Catalog of Federal Domestic Assistance Number: 19.415.

Application Deadline: May 28, 2010.

Executive Summary: The Office of Citizen Exchanges, Youth Programs Division, of the Bureau of Educational and Cultural Affairs announces an open competition for the American Youth Leadership Program. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) may submit proposals to implement a short-term exchange program for American high school students and educators that will enable the participants to gain firsthand knowledge of foreign cultures and to collaborate on solving global issues. Applicant organizations will recruit and select youth and adult participants from the United States and provide them with a three- to four-week exchange program abroad focused on dialogue and debate, leadership development, and community service. Upon returning home, the students will apply what they have learned to serve their schools and communities.

I. Funding Opportunity Description

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic

and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through legislation.

Overview

The American Youth Leadership Program will provide high school students and adult educators from the United States with an opportunity to travel abroad on a three- to four-week-long exchange program to gain firsthand knowledge of foreign cultures and to collaborate on solving global issues. The participants will have an academic and experiential education program focused on dialogue and debate, leadership development, and community service. The program activities will also focus on one of the following four themes that can be examined for both local and global impact:

1. The role of the media.
2. The environment and climate change.
3. Food security and nutrition.
4. Science and technology.

Applicants should choose from one of these four global themes and narrow it down to a more specific topic(s) within the subject area.

The exchange participants will engage in a variety of activities that provide an introduction to the civic, cultural, and educational institutions of the host country through workshops on leadership and service, community site visits related to the program themes, interactive training, simulations, debates, presentations, visits to high schools, cultural activities, and other activities designed to achieve the program's stated goals. It is essential that applicants engage local youth in a substantive and meaningful way in activities with the American students. Follow-on activities with the participants are an integral part of the program, as the students apply the knowledge and skills they have acquired in their home communities. Exchange activities will be conducted in English, though participants should receive basic language instruction a few hours per week during the exchange.

Program Goals

1. Promote mutual understanding between the people of the United States and the people of the partner country(ies).
2. Prepare youth leaders to become responsible citizens and contributing members of their communities.
3. Spark an interest in learning about foreign cultures among American youth.
4. Develop a cadre of Americans with cultural understanding who are able to advance international dialogue and compete effectively in the global economy.

Using these goals and themes above, applicant organizations should identify their own specific objectives and measurable outcomes based on these program goals and the project specifications provided in this solicitation.

Eligible Countries

The FY 2010 American Youth Leadership Program will focus on specific countries according to the guidelines below.

(1) *Single-Country Projects.* Applicants may submit one proposal to conduct one OR two separate exchange projects, each of which sends American participants to one of the following countries:

1. Bahrain.
2. Bangladesh.
3. Cambodia.
4. Japan.
5. Kenya.
6. Mongolia.
7. Namibia.
8. Norway.

(2) *Multi-Country Projects.* Applicants may propose to conduct one exchange project that sends American participants to each country in one of the following groupings:

1. Bulgaria and Romania.
2. Costa Rica and Panama.
3. Fiji and Samoa (including Tonga is optional).
4. Kazakhstan and Tajikistan.

ECA plans to award multiple grants for the management of the American Youth Leadership Program for approximately eight projects; applicants should choose from the list of eight single-country projects and four multi-country projects above. Each single- or multi-country project should cost a total of approximately $250,000 for a group of 30 to 40 participants.

Applicants must propose a plan to break a large delegation into smaller cohorts for most of the exchange activities to maximize the educational experience and ensure individualized attention for each participant. For example, in a single-country project, a delegation of 40 participants could travel to the partner country at the same time, but be divided into three or four smaller groups that each visit a different city; or two separate delegations of 15 to 20 participants could travel to the partner country at different times. For multi-country projects, each country in the grouping must be visited by at least one delegation of students and educators, but the exchange activities may take various forms. For example, all 40 participants could travel to each of the countries listed during the three- to four-week period; or they could be broken up into smaller delegations that travel separately to just one country. Applicants are encouraged to be creative and flexible in their arrangements that will help meet our program goals.

Organizations may apply for one single-country project, two single-country projects, or one multi-country project, but must submit only ONE proposal under this competition. The Bureau strongly urges organizations to limit their applications to the country(ies) where they have the strongest institutional capacity. The Bureau reserves the right to reduce, revise, or increase proposal project configurations, budgets, and participant numbers in accordance with the needs of the program and the availability of funds.

Participants

Both the youth and adult participants must meet the following eligibility requirements:

1. Be U.S. citizens;
2. Be selected through a merit-based competition;
3. Represent the diversity of the United States; and
4. Demonstrate an interest in the partner country and the project themes.

Criteria for selection of the participants will include leadership skills, an interest in service to the community, strong academic and social skills, overall composure, openness and flexibility. It is desirable that a few participants live in the same community to facilitate future collaboration upon their return to the United States.

The youth participants must be high school students aged 15 to 17 years old, with at least one semester of high school remaining. The adult participants may be teachers, trainers, school administrators, and/or community leaders who work with youth; they will have the dual role of both exchange participant and chaperone. The ratio of youth to adults should be approximately 10:1, depending on the size of the exchange delegation.

Organizational Capacity

Applicants must demonstrate their capacity for conducting international youth exchanges, focusing on three areas of competency: (1) Provision of programs that address the goals and themes outlined in this document; (2) age-appropriate programming for youth; and (3) previous experience working on programs in the partner country. In addition to their U.S. presence, applicants must have the organizational

capacity in the relevant country—or they must partner with an organization or institution with the requisite capacity—to provide a content-rich exchange program for the American participants. The importance of a viable, experienced in-country partner cannot be over-emphasized. The partner organization must have a functioning office in the host country and an established track record working with youth. Applicants should consult with their in-country partners and involve them in the preparation of the proposal. Applicants should consult with the Public Affairs Section of the U.S. Embassies in the country proposed for the exchange concerning the selection and reliability of the in-country partner organization(s). Please e-mail ECA Program Officer Jennifer Phillips for contact information.

U.S. Embassy Involvement

It is important that the proposal narrative clearly state the applicant's commitment to consult closely with the Public Affairs Section of the U.S. Embassy in the host country, once a grant is awarded. Since this program involves U.S. citizen minors, the U.S. Embassy will provide oversight and monitoring; concur on housing arrangements, including host family locations (regions, neighborhoods); represent the U.S. Government while the exchange activities are taking place in the host country; and assist program staff and participants in the event of an emergency. At the same time, the requirements of the grant are that the grantee organization must be able to manage the program in the host country in its entirety, with little reliance on the embassy staff for support.

Guidelines

The grant will begin on or about September 1, 2010. The grant period will be approximately 16 to 20 months in duration, according to the applicant's program plan, and will cover all aspects of the programming in the United States and the partner country—the recruitment, selection, and orientation of the participants, the three to four weeks of exchange activities, and support of follow-on activities. Planning and preparation will start in late summer 2010, and the exchange activity will take place in 2011. Applicants must consult with their overseas partners and propose mutually agreeable times for the exchange(s) in their proposals. For instance, while the summer months may be a good time for Americans to travel, it may not be a suitable time for hosting activities in the partner country. The exact timing of the project may be altered through the mutual agreement of the Department of State and the grant recipient.

The grant recipient will be responsible for the following:

Recruitment and Selection: Manage the recruitment and merit-based selection of a diverse group of youth and adult participants from the United States. Diversity addresses, but is not limited to, ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. The Bureau will have final approval of all selected delegations.

Orientations: Provide pre-departure and arrival orientations for exchange participants and orientations for those participating from the host countries, including host families.

Logistics: Manage all logistical arrangements, including passport and visa applications, international and domestic travel, local transportation, accommodations, group meals, and disbursement of stipends. This includes provision of effective interpretation and translation, as needed.

Exchange Activities: Design and plan three to four weeks of exchange activities in the partner country that provide a creative and substantive program on the specified themes and offer a thorough introduction to the host country's culture and the civic, cultural, and educational institutions. In addition to visiting the capital city or major city of the host country, the delegations should spend their time in no more than one or two locations so that the participants have time to familiarize themselves with a community. The program should focus primarily on interactive activities, practical experiences, and other hands-on opportunities that reveal various aspects of the host country, such as group dialogues with peers, volunteer service projects, or visits with community and government leaders. Participants will explore leadership through activities such as project planning, team building, and public speaking. Visits to different types of educational institutions should be a component of each exchange. All programming will involve as much sustained interaction as possible with peers of the host country, for both the youth and adult participants. Cultural, social, and recreational activities will balance the schedule. Please see the POGI for more details.

Accommodations: Arrange home stays for the participants with properly screened and briefed families for the majority of the exchange period. Host families may receive a modest stipend to offset the cost of hosting, but not to serve as a financial incentive. Alternate housing arrangements will be considered based on the local environment; applicants must provide justification if home stays cannot be arranged. Once a grant is awarded, organizations must seek and obtain approval about host family locations from the U.S. Embassy in the partner country.

Monitoring: Develop and implement a plan to monitor the participants' safety and well-being while on the exchange and to resolve any issues promptly. The grant recipient will be required to provide proper staff supervision and facilitation to ensure that the teenagers have safe and pedagogically robust programs. Staff, along with the adult participants, will assist the youth with cultural adjustments, provide societal context to enhance learning, and counsel students as needed. For the safety and security of the American participants abroad, applicants must provide similar protections and oversight traditionally afforded to foreign students in the United States under the J–1 visa regulations.

Follow-on Activities: Plan and implement activities in the United States, particularly in facilitating continued engagement among the participants, advising and supporting them in the implementation of community service projects, and offering opportunities to reinforce the ideas, values and skills imparted during the exchange. Applicants should present creative and effective ways to address the project themes, for both program participants and their peers, as a means to amplify the program impact.

Evaluation: Design and implement an evaluation plan that assesses the impact of the program.

Other Notes

All materials, publicity, and correspondence related to the program will acknowledge this as a program of the Bureau of Educational and Cultural Affairs of the U.S. Department of State. The Bureau will retain copyright use of and be allowed to distribute materials related to this program as it sees fit.

Proposals must demonstrate how the stated objectives will be met. The proposal narrative should provide detailed information on the major program activities, and applicants should explain and justify their programmatic choices.

Please be sure to refer to the complete Solicitation Package—this RFGP, the Project Objectives, Goals, and Implementation (POGI), and the Proposal Submission Instructions (PSI)—for further information.

II. Award Information

Type of Award: Grant Agreement.
Fiscal Year Funds: 2010.
Approximate Total Funding: $2,084,000.
Approximate Number of Awards: Four to eight.
Approximate Average Award: $500,000.
Floor of Award Range: $200,000.
Ceiling of Award Range: $500,000.
Anticipated Award Date: September 1, 2010.
Anticipated Project Completion Date: 16–20 months after start date, to be specified by applicant based on project plan.
Additional Information: Pending successful implementation of the project and the availability of funds in subsequent fiscal years, ECA reserves the right to renew grants for up to two additional fiscal years before openly competing grants under this program again.

III. Eligibility Information

III.1. Eligible Applicants: Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds: There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements: All proposals must comply with the following or they will result in your submission being declared technically ineligible and given no further consideration in the review process.

(a) Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates making multiple awards in amounts exceeding $60,000 to support the program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

(b) Proposed sub-award recipients are also limited to grant funding of $60,000 or less if they do not have four years of experience in conducting international exchanges.

(c) Eligible applicants may not submit more than one proposal under this competition. Applicant organizations are defined by their legal name and EIN number as stated on their completed SF–424 form and additional supporting documentation outlined in the Proposal Submission Instructions (PSI) document.

(d) Eligible applicants may only propose working with the countries and themes listed under this RFGP.

(e) Eligible applicants may only propose to conduct one single-country project, two single-country projects, or one multi-country project.

(f) Eligible applicants must include in their proposal a letter of support from their partner organization(s) in the host country(ies) stating their agreement to carry out the proposed activities.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1 Contact Information to Request an Application Package: Please contact the Youth Programs Division, ECA/PE/C/PY, SA–5, 3rd Floor, U.S. Department of State, Washington, DC 20522–0503, Tel (202) 632–9352, E-mail *YLP@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/PE/C/PY–10–41 when making your request. Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required application forms, and standard guidelines for proposal preparation. It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria and budget instructions tailored to this competition.

Please specify Bureau Program Officer Jennifer Phillips and refer to the Funding Opportunity Number ECA/PE/C/PY–10–41 on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/grants/open2.html,* or from the Grants.gov Web site at *http://www.grants.gov.*

Please read all information before downloading.

IV.3. Content and Form of Submission: Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. "Application Deadline and Methods of Submission" section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please refer to the solicitation package. It contains the mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals and Implementation (POGI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. **Please note:** Effective January 7, 2009, all applicants for ECA Federal assistance awards must include in their application the names of directors and/or senior executives (current officers, trustees, and key employees, regardless of amount of compensation). In fulfilling this requirement, applicants must submit information in one of the following ways:

(1) Those who file Internal Revenue Service Form 990, "Return of

Organization Exempt From Income Tax," must include a copy of relevant portions of this form.

(2) Those who do not file IRS Form 990 must submit information above in the format of their choice.

In addition to final program reporting requirements, award recipients will also be required to submit a one-page document, derived from their program reports, listing and describing their grant activities. For award recipients, the names of directors and/or senior executives (current officers, trustees, and key employees), as well as the one-page description of grant activities, will be transmitted by the State Department to OMB, along with other information required by the Federal Funding Accountability and Transparency Act (FFATA), and will be made available to the public by the Office of Management and Budget on its USASpending.gov Web site as part of ECA's FFATA reporting requirements.

If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1. Adherence To All Regulations Governing The J Visa. The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the "Responsible Officer" for the program under the terms of 22 CFR part 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR part 62, organizations receiving awards (either a grant or cooperative agreement) under this RFGP will be third parties "cooperating with or assisting the sponsor in the conduct of the sponsor's program." The actions of recipient organizations shall be "imputed to the sponsor in evaluating the sponsor's compliance with" 22 CFR part 62. Therefore, the Bureau expects that any organization receiving an award under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 *et seq.*

The Bureau of Educational and Cultural Affairs places critically important emphases on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by recipient organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should *explicitly state in writing* that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR part 62 *et seq.,* including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, recordkeeping, reporting and other requirements.

It is acknowledged that outbound American participants are not governed by the same protections of the J–1 visa regulations governing exchange students coming to the U.S. For the safety and security of the American participants abroad, applicants must provide similar protections and oversight traditionally afforded to foreign students in the United States under the J–1 visa regulations.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: Office of Designation, ECA/EC/D, SA–5, Floor C2, Department of State, Washington, DC 20522–0582.

IV.3d.2. Diversity, Freedom and Democracy Guidelines. Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the "Support for Diversity" section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation. Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the recipient organization will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are "smart" (specific, measurable, attainable, results-oriented, and placed in a reasonable timeframe), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes. Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes,* in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.
2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.
3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.
4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (i.e., surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Recipient organizations will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit SF–424A—"Budget Information—Non-Construction Programs" along with a comprehensive budget for the entire program. Budget requests may not exceed $500,000. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification. Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Application Deadline and Methods of Submission:

Application Deadline Date: Friday, May 28, 2010.

Reference Number: ECA/PE/C/PY–10–41.

Methods of Submission: Applications may be submitted in one of two ways:

(1) In hard-copy, via a nationally recognized overnight delivery service (*i.e.,* Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2) electronically through *http://www.grants.gov.*

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1 Submitting Printed Applications

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will *not* notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to "ECA/EX/PM".

The original and six copies of the application should be sent to: Program Management Division, ECA–IIP/EX/PM, Ref.: ECA/PE/C/PY–10–41, SA–5, Floor 4, Department of State, 2200 C Street, NW., Washington, DC 20522–0504.

With the submission of the proposal package, please also e-mail the Executive Summary, Proposal Narrative, and Budget sections of the proposal, as well as any attachments essential to understanding the program, in Microsoft Word, Excel, and/or PDF, to the program officer at *PhillipsJA@state.gov.* As appropriate, the Bureau will provide these files electronically to Public Affairs Section(s) at the U.S. embassies for their review.

IV.3f.2—Submitting Electronic Applications

Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the "Find" portion of the system.

Please Note: ECA bears no responsibility for applicant timeliness of submission or data errors resulting from transmission or conversion processes for proposals submitted via Grants.gov.

Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*).

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov.

Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your internet connection. In addition, validation of an electronic submission via Grants.gov can take up to two business days.

Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

The Grants.gov Web site includes extensive information on all phases/aspects of the Grants.gov process, including an extensive section on frequently asked questions, located under the "For Applicants" section of the Web site. ECA strongly recommends that all potential applicants review thoroughly the Grants.gov Web site, well in advance of submitting a proposal through the Grants.gov system. ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support, *Contact Center Phone:* 800–518–4726, *Business Hours:* Monday–Friday,

7 a.m.–9 p.m. Eastern Time. E-mail: *support@grants.gov.*

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. *There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.*

Please refer to the Grants.gov website, for definitions of various "application statuses" and the difference between a submission receipt and a submission validation. Applicants will receive a validation e-mail from grants.gov upon the successful submission of an application. Again, validation of an electronic submission via Grants.gov can take up to two business days. *Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.* ECA will *not* notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov Web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Affairs Sections overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (grants) resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below.

1. Quality of the program idea: The proposed program should be well developed, respond to design outlined in the solicitation, and demonstrate originality. It should be clearly and accurately written, substantive, and with sufficient detail. Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

2. Program planning: A detailed agenda and work plan should clearly demonstrate how project objectives would be achieved. The agenda and plan should adhere to the program overview and guidelines described above. The substance of workshops, seminars, presentations, school-based activities, and/or site visits should be described in detail. Objectives should be reasonable, feasible, and flexible. The proposal should clearly demonstrate how the organization will meet the program's objectives and plan.

3. Support of diversity: The proposal should demonstrate the recipient's commitment to promoting the awareness and understanding of diversity in program content. Applicants should demonstrate readiness to accommodate participants with physical disabilities.

4. Institutional capacity and track record: Proposed personnel and institutional resources should be adequate and appropriate to achieve the program goals. The proposal should demonstrate an institutional record, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by the Bureau's Office of Contracts. The Bureau will consider the past performance.

5. Program evaluation: The proposal should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. The proposal should include a draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives. The grant recipient will be expected to submit intermediate reports after each project component is concluded.

6. Cost-effectiveness and cost sharing: The applicant should demonstrate efficient use of Bureau funds. The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. The proposal should maximize cost-sharing through other private sector support as well as institutional direct funding contributions, which demonstrates institutional and community commitment.

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive a Federal Assistance Award (FAA) from the Bureau's Grants Office. The FAA and the original proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The FAA will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2 Administrative and National Policy Requirements: Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, "Cost Principles for Nonprofit Organizations."

Office of Management and Budget Circular A–21, "Cost Principles for Educational Institutions."

OMB Circular A–87, "Cost Principles for State, Local and Indian Governments".

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations

Please reference the following Web sites for additional information:

http://www.whitehouse.gov/omb/grants.

http://fa.statebuy.state.gov.

VI.3. Reporting Requirements: You must provide ECA with a hard copy original plus one copy of the following reports:

(1.) Interim program and financial reports, as required in the grant agreement;

(2.) A final program and financial report no more than 90 days after the expiration of the award;

(3.) A concise, one-page final program report summarizing program outcomes no more than 90 days after the expiration of the award. This one-page report will be transmitted to OMB, and be made available to the public via OMB's USAspending.gov Web site—as part of ECA's Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

(4.) A SF–PPR, "Performance Progress Report" Cover Sheet with all program reports.

Award recipients will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VI.4. Program Data Requirements: Award recipients will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. As a minimum, the data must include the following:

(1) Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the agreement or who benefit from the award funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Draft schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three weeks prior to the beginning of the activity.

VII. Agency Contacts

For questions about this announcement, contact: Jennifer Phillips, Youth Programs Division, ECA/PE/C/PY, U.S. Department of State, Washington, DC 20522–0503, Tel (202) 632–9352, Fax (202) 632–9355, *PhillipsJA@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/PY–10–41.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: March 31, 2010.

Maura M. Pally,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 2010–7971 Filed 4–7–10; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6948]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Trans-Saharan Professionals Program

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C/AF–NEA–WHA–10–53.

Catalog of Federal Domestic Assistance Number: 19.415.

Key Dates:

Fiscal Year Funds: 2010.

Application Deadline: May 20, 2010.

Anticipated Award Date: September 15, 2010.

Anticipated Project Completion Date: August 31, 2012.

Approximate Total Funding: $1,650,000.

Approximate Number of Awards: 3.

Approximate Average Award: $400,000–$650,000.

Executive Summary: The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs (ECA/PE/C) announces an open competition for grants to conduct one of three professional exchange programs in the Trans-Sahara Africa Region. The Office anticipates awarding separate grants to three different organizations, one for each of the three themes presented in this announcement.

U.S. public and non-profit organizations meeting the provisions described in Internal Revenue code section 26 U.S.C. 501(c)(3) may submit proposals that support the goals of the Trans-Saharan Professionals Program. These goals, which encompass both bureau and programmatic goals, are: (1) To provide foreign participants from eligible countries an opportunity for professional development through three- to four-week study tours and internships in the U.S.; (2) to provide U.S. participants the opportunity to share their professional expertise with counterparts in eligible countries while also learning from them; (3) to promote mutual understanding and partnerships between key professional groups in the United States and counterpart groups in eligible countries with a plan for working relationships to continue well beyond the period of ECA funding; and (4) encourage mass media to report on the program to a wider audience. Proposed projects should be two-way exchanges involving participants from both the U.S. and foreign countries traveling to each others' countries. Each project should contribute to the strengthening of civil society where it is carried out. Participants in these projects will be provided professional learning programs that will enhance their careers with the expectation that they will contribute their expertise to the program.

Projects should take place over the course of approximately two years and target current or up-and-coming professional leaders who will promote positive development in their communities. Specific themes of interest in this competition include: Elections, Business Development, and Community Leadership. Eligible countries and guidance for each theme are provided in Section I.7 below. Proposals that target themes and countries not specifically mentioned in this Request for Grant Proposals will be considered technically ineligible and receive no further consideration in the review process.

Applicants may submit only one proposal under this competition. If multiple proposals are received from the same applicant, all submissions will be declared technically ineligible and receive no further consideration in the review process. No guarantee is made or implied that grants will be awarded in all themes or for all countries listed.

I. Funding Opportunity Description

I.1. Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–

256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries (* * *); to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations (* * *) and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through legislation.

I.2. Purpose and Program Description: In this competition, the Trans-Saharan Professionals Program is conceived as a two-way exchange involving current or up-and-coming professional leaders from both the U.S. and selected African countries who will effect positive development in their communities. Professional programs will be focused in the following themes: Elections, Business Development, and Community Leadership. One grant will be awarded for each of these themes. The goals of each program are: (1) To provide African participants from eligible countries a plan for professional development through three- to four-week learning programs in the U.S.; (2) to provide U.S. participants a plan to share their professional expertise with counterparts in eligible countries while also learning from them; (3) to promote mutual understanding and partnerships between key professional groups in the United States and counterpart groups in eligible countries with a plan for working relationships to continue well beyond the period of ECA funding; and (4) to encourage mass media to report on the program to a wider audience. Projects will take place over the course of approximately two years.

Proposals should demonstrate how the grantee will creatively utilize online networking sites such as the State Department's Alumni Web site (*alumni.state.gov*) to engage with program participants before, during and after they take part in the international exchange and the Bureau's new social networking site, Exchanges Connect (*connect.state.gov*), to highlight program activities and first-person participant experiences during the program. Applicants should plan to get participants registered on the Bureau's Alumni site and assist them in using it.

I.3. Participants. For the purposes of this program, "participants" are defined as those who travel under grant funding from their country of origin to a designated exchange country. The recommended numbers of African and U.S. participants are presented in section I.7 below for each theme. Although more African participants than American participants are anticipated under this program model, it is important to emphasize that this program is reciprocal in nature and directed to mutual understanding with learning and giving on both the African and U.S. sides.

African participants should be selected through a merit-based, competitive process. They should be up-and-coming or mid-level professionals with experience or responsibility relevant to one of the specific themes. They should have good interpersonal and communication skills that will allow them to function effectively and independently in a wide variety of private, public, and professional settings in the U.S. While a command of oral and written English is highly desirable, those participants who do not possess strong English language skills should be provided with interpretation and translation assistance. Proposals should describe how participants who need language assistance will be accommodated and the costs included in the budget. Logistics and costs will be too great to recruit a separate interpreter for each African participant, so group activities with a few interpreters may be most practical. Participants should also have demonstrated leadership abilities and a commitment to or participation in a wider program, including alumni projects and affairs.

U.S. participants may include individuals who act as hosts and mentors for African participants who travel to the U.S., and professionals from government and civil society organizations with expertise relevant to the project focus. While U.S. participants are not required to have relevant foreign language capability, it is recommended. As with the African participants, proposals should describe how language interpretation needs will be handled and their costs included in the budget.

Applicants should plan to program the number of participants noted in section I.7 below, or more, and maximize the lengths of the U.S.- and African-based programs within the given funding levels. Therefore, applicants that use home-stays, engage public and private partners who provide programming support, maximize cost sharing, and employ other creative techniques to increase or stretch funding dollars will be deemed more competitive under the cost effectiveness/cost sharing review criterion reference below. Grantees must assure that home-stay lodging will be of appropriate good quality for safety, cleanliness, and comfort.

I.4. Partner Organizations. Applicants must identify the U.S.-based and foreign-based organizations and individuals with whom they are proposing to collaborate and describe previous cooperative activities, if any.

I.5. Project Activities. To be successful, grant applicants must convincingly demonstrate a capacity to achieve the following key activities:

I.5a. Recruit Participants. The recipient of this award will recruit qualified individuals throughout the target countries for both spring and fall delegates. African participants should be selected through a merit-based, competitive process with the knowledge and participation of the Public Affairs Section (PAS) of the U.S. Embassy. An in-country or regional partner organization(s) or office is also required to coordinate screening, selecting, and preparing participants prior to departure for the United States including a formal pre-departure orientation program.

I.5b. Facilitate the Visa Process. The grant recipient must work with ECA and the relevant Public Affairs Sections of U.S. embassies to secure U.S. visas for African participants, and work directly with the partner country embassy to secure visas for U.S. participants. ECA will issue the DS–2019 forms required for the J visas on which foreign participants must travel when participating in an ECA-sponsored program.

I.5c. Arrange All Round-trip International Travel, complying with the Fly America Act, and domestic travel arrangements for the participants.

I.5d. Conduct U.S.-Based Learning Programs. The recipient of this award will be responsible for designing and implementing learning programs from three to four weeks in the United States for African participants. ECA is open to creative and cost-efficient approaches for program content. U.S.-based home-stays for African participants are recommended to reduce costs while providing cultural learning. The grantee may consider engaging a partner or sub-grantee to arrange for internship placements or other specialized learning activities. The link of project activities to project objectives should be explained.

I.5e. Conduct an Overseas Program for U.S. Participants. The recipient of this award will conduct an overseas program in which U.S. participants will travel for two to three weeks to conduct on-site consultancies and joint programming

with African participants and their colleagues, and, if appropriate and feasible, reciprocal internships to share their professional expertise and learn from their counterparts. Home-stays may also be considered. The overseas program should be designed to engage a broad audience beyond the original African participants. Proposals should demonstrate how the grantee would work with a community-based partner overseas to engage a wide range of people and will sustain the program benefits beyond the period of the grant. The link of project activities to project objectives should be explained.

I.5f. Conduct a Second Round of U.S. Studies and Overseas Programs. The recipient of this award will conduct a second round of U.S.-based learning activities and overseas programs of a similar nature as described in I.5d and I.5e above in order to build on the work of the first cohorts.

I.5g. Conduct Orientation and Professional Conference. The grantee will also be responsible for conducting a thorough orientation for African participants upon their arrival in the United States, as well as a concluding conference in Washington, DC, to be coordinated with the ECA's Office of Citizen Exchanges and with other grantees in this set of three thematic projects. For the Professionals Conference, grantees will be responsible for providing transportation, lodging, per diem and miscellaneous expenses for all program fellows for a minimum of one day in Washington, DC. These costs should be included in the proposal budget. The ECA Office of Citizen Exchanges will work with the grantees to plan one day's activities in Washington that will introduce the participants to Department leaders, explain support available for alumni activities, and arrange visits to other relevant Government offices. Grantees will be responsible for planning any activities in Washington, DC, beyond that day.

I.5h. Monitor, Evaluate, and Report on Project. ECA places high importance on monitoring and evaluation as a means of ensuring and measuring a project's success. Proposals must include a detailed monitoring and evaluation plan that assesses the impact of the project. Please refer to section. III.3d.3. Project Monitoring and Evaluation below.

I.5i. Engage Media (journalists in press, radio, television, and Web activities) who will report on program activities to wider audiences.

I.5j. Carry Out Follow-up Activities. The recipient of this award will develop enhancement activities that reinforce program goals after the participants' return to their home countries. This commitment must include informing participants of the Bureau's Alumni program, facilitating their enrollment, and developing plans for their on-going participation. Please refer to the PSI for additional information on Alumni, Outreach, and Engagement.

I.5k. Manage All Financial Aspects of the Project, including participant costs and transparent arrangements of sub-grant relationships with partner organizations, if applicable.

I.6. Projected Timeline. ECA envisions that the Professional Fellows program calendar will be approximately as follows:

- September 2010—January 2011: Recruitment and selection of African participants and securing U.S.-based hosts and learning sites.
- March—May 2011: Travel to the United States by half of the African participants for orientation and placement at learning sites for a three- to four-week program.
- May 2011: Travel by the African participants to Washington, DC at or towards the end of their U.S.-based program for an enrichment conference arranged in conjunction with the ECA Office of Citizen Exchanges.
- June—September 2011: The U.S. participants who were involved in the spring 2011 hosting and education will travel overseas for two-three weeks of programming.
- October—December 2011: Travel to the United States by the remaining half of the African participants for orientation and placement at learning sites for a three- to four-week program.
- November—December 2011: Travel by the remaining African participants to Washington, DC at or towards the end of their U.S.-based program for an enrichment conference arranged in conjunction with the ECA Office of Citizen Exchanges.
- January—May 2012: The U.S. participants who were involved in the fall 2011 hosting and education will travel overseas for two-three weeks of programming.

I.7. Themes. Specific grant awards will be made for Professional Fellowships to be carried out in the following themes and countries:

I.7a. Elections Fellows: Grant not to exceed $650,000: Free and fair elections are a crucial component of democracy. Only as government leaders are selected through open procedures in which citizens can freely participate can the public have confidence in their government. The Elections exchange project should focus on six francophone countries that are scheduled to hold elections in the next couple of years: Burkina Faso, Chad, Mali, Mauritania, Niger, Senegal. This special Professional Exchanges initiative will engage governmental and nongovernmental leaders on the following and related issues at the grassroots level that contribute to free and fair elections: Voter registration and education, election monitoring, campaign guidelines, the role of media and citizens' organizations, and protection of voter privacy.

This will be a two-year exchange and education program. In the first year, a U.S. delegation of six experts on the issues noted above will travel to the six countries to solidify working plans with local partners and, with U.S. Embassy/PAS assistance, recruit Africans who will come to the U.S. In the next phase, a delegation made up of three Africans from each of the six countries will come to the U.S. for 3–4 weeks of study of electoral processes, the role of media and citizens' organizations, and the education and activities of voters. This delegation will include leaders with (a) community responsibilities (such as League of Women Voters in the U.S.) for informing voters and monitoring electoral procedures, (b) governmental responsibility for an aspect of elections, and (c) media assignment to cover elections. Toward the end of this delegation's study in the U.S., they should be brought to Washington, DC, for a one-day conference planned in conjunction with the ECA Office of Citizen Exchanges which will introduce relevant elements of the Federal Government. In the second year, another delegation of six U.S. experts will travel to the six partner countries to assess the impact of the first year's work and to recruit another delegation of Africans to come to the U.S. That second delegation of Africans will again include three community leaders from each of the six countries and will be programmed to work with American counterparts for 3–4 weeks. Again, toward the end of this delegation's study in the U.S., they should be brought to Washington, DC, for a one-day conference planned in conjunction with the Office of Citizen Exchanges which will introduce relevant elements of the Federal Government, with the grantee responsible for any additional activities in DC beyond that day. Thus, over the two-year period of the grant, 36 Africans will come to the U.S. and 12 Americans will travel to Africa.

I.7a.1. Trans-Saharan Africa:

Countries: Burkina Faso, Chad, Mali, Mauritania, Niger, and Senegal.

Program Contact: Jim Ogul; tel: (202) 632–6055, e-mail: *ogulje@state.gov.*

I.7b. Business Development Fellows: Grant not to exceed $600,000: Unemployment rates are high among young adults in Africa, and those young adults make up a majority of populations in the Trans Saharan countries. The lack of jobs leads to frustration, and vulnerability to extremist views is widespread. This new Professional Exchanges program will offer entrepreneurship education, including the skills to assess business risk without crushing it and an emphasis on creating new jobs or businesses. These skills will include identifying a market, raising start-up funds, designing a business plan, managing staff, advertising, and understanding the legal environment for business development. The focus will be on five francophone West African countries with similar colonial histories: Burkina Faso, Chad, Mali, Niger, and Senegal.

This will be a two-year exchange and education program in new business development. In the first year, a U.S. delegation of five experts on entrepreneurship and business development would travel to the five target countries to solidify working plans with local partners and, with U.S. Embassy/PAS assistance, recruit Africans who will come to the U.S. In the next phase, a delegation made up of three Africans from each of the five countries would come to the U.S. for 3–4 weeks to study new business development. This delegation would include young adults, both women and men, who have demonstrated an aptitude for entrepreneurship and planning. Toward the end of this delegation's study in the U.S., they should be brought to Washington, DC, for a one-day conference planned in conjunction with the ECA Office of Citizen Exchanges which will introduce relevant elements of the Federal Government, with the grantee responsible for arranging any activities in DC beyond that day. In the second year, another delegation of five U.S. experts would travel to the five partner countries to assess the impact of the first year's work and to recruit another delegation of Africans to come to the U.S. That second delegation of Africans would again include three young adults with promising aptitudes from each of the five countries and would be programmed to work with American counterparts for 3–4 weeks. Again, toward the end of this delegation's study in the U.S., they should be brought to Washington, DC, for a one-day conference planned in conjunction with the ECA Office of Citizen Exchanges which will introduce relevant elements of the Federal Government, with the grantee responsible for arranging any activities in DC beyond that day. Thus, over the two-year period of the grant, 30 Africans will travel to the U.S. and 10 Americans will travel to Africa.

I.7b.1. Trans-Saharan Africa:

Countries: Burkina Faso, Chad, Mali, Niger, and Senegal.

Program Contact: Jim Ogul; tel: (202) 632–6055, e-mail: *ogulje@state.gov.*

I.7c. Leadership Fellows: Grant not to exceed $400,000: This program will promote leadership development in community and governmental affairs in three of the five eligible countries. Grant applicants must choose three countries from the list below and explain those choices. The program will emphasize both leadership skills and ethical standards, while introducing participants to the structure and foundation of the U.S. government, emphasizing separation of powers, checks and balances, transparency in operations, as well as citizen participation in the decision-making process. Participants will observe diverse examples of leadership and the evolving role of women and minorities in business, government, community, and social affairs. This project could focus on leaders in dispute resolution and cross-cultural dialogue, community organizers, activists from grassroots organizations, business leaders, media representatives, and/or government officials.

This will be a two-year exchange and education program in leadership. In the first year, a U.S. delegation of four experts on leadership would travel to the three target countries to solidify working plans with local partners and, with U.S. Embassy/PAS assistance, recruit Africans who will come to the U.S. In the next phase, a delegation made up of four Africans from each of the three countries would come to the U.S. for 3–4 weeks to study leadership development. This delegation will include young adults, both women and men, who have demonstrated an aptitude for leadership and community outreach. Toward the end of this delegation's study in the U.S., they should be brought to Washington, DC, for a one-day conference planned in conjunction with the ECA Office of Citizen Exchanges which will introduce relevant elements of the Federal Government, with the grantee responsible for any activities in DC beyond that day. In the second year, another delegation of four U.S. experts will travel to the three partner countries to assess the impact of the first year's work and to recruit another delegation of Africans to come to the U.S. That second delegation of Africans will again include four young adults with promising aptitudes from each of the three countries and will be programmed to travel to the U.S. to work with American counterparts for 3–4 weeks. Again, toward the end of this delegation's study in the U.S., they should be brought to Washington, DC, for a one-day conference planned in conjunction with the ECA Office of Citizen Exchanges which will introduce relevant elements of the Federal Government, with the grantee responsible for any activities in DC beyond that day. Thus, over the two-year program, the grant will sponsor 24 Africans coming to the U.S. and 8 Americans going to Africa.

I.7c.1. Trans-Saharan Africa:

Countries: Choose three from these eligible countries: Burkina Faso, Chad, Mali, Mauritania, Niger, and Senegal.

Program Contact: Jim Ogul; tel: (202) 632–6055, e-mail: *ogulje@state.gov.*

I.8. What to Include in Your Proposal:

I.8a. Executive Summary. The Executive Summary should be one-page in length and include the project title, the goals of the project, the target countries, the names of all partner organizations responsible for program implementation, the numbers of participants, both African and American, and the number of proposed exchanges and approximate dates.

I.8b. Proposal Narrative. In no more than 20, double-spaced pages, the narrative should include:

I.8b.1. Project Goals, Objectives, Anticipated Outcomes. A clear, succinct statement of project goals, objectives and anticipated outcomes that responds to Bureau goals as listed in this RFGP. Objectives should be described in specific, measurable, and realistic terms that are achievable within the scope of the project, both in terms of time and funding. Specify the project's broader objectives in terms of bureau and overarching program outcomes. Then delineate the project's main objectives (no more than five) and outcomes you expect as a result of your project's activities. For each outcome, please state the time frame for achievement. They should be guided by one or more of the following questions. (Please see section III.3d.3. Project Monitoring and Evaluation for assistance in identifying and defining outcomes.)

1. What specifically will participants, U.S. and African, learn as a result of this project?

2. What new attitudes will participants, U.S. and African, develop,

or what new ideas will they encounter as a result of this project?

3. How will the participants' behavior change as a result of this project? What new actions will they take?

4. How will participants be a catalyst for change in their businesses, schools, work-places, governments, communities, or institutions?

Proposals that clearly delineate salient objectives in measurable terms and plan activities in a sequence that will progressively lead to achieving those objectives, will be considered more competitive.

I.8b.2. Background Information on Implementing Organizations. Information on all organizations and staff involved in the implementation of the project including the mission, relevant expertise in the project theme and countries, past activities and accomplishments, on-going and planned activities not including the proposed project. Previous grants received from the Bureau should be listed by office (Citizen Exchanges, International Visitors, Academic Exchanges, etc.) project name, countries, year, and amount.

I.8b.3. Roles and Responsibilities. A clear delineation of the roles and responsibilities of all partner organizations in terms of project logistics, management, and oversight. Letters of agreement and/or sub-award agreements with accompanying budgets should be included under Tab E of the submission.

I.8b.4. Project Management Plan. A simple project management plan for the two-year life of the project that lists, in table form, dates, items (major events or tasks), and the person or group responsible.

I.8b.5. Support of Diversity. A description on how the Bureau's policy on Support of Diversity will be integrated into the project. Please refer to guidance in PSI under "Diversity, Freedom and Democracy Guidelines."

I.8b.6. Post-Grant Plan. A post-grant plan that demonstrates how the grantee and participants will collaborate and communicate after the ECA-funded grant has concluded.

I.8b.7. Evaluation Plan. An evaluation plan that follows the guidance provided in this RFGP. Please refer to section III.3d.3. "Project Evaluation" below. Detailed evaluation plans that put the narrative over the 20-page limit and sample surveys or other evaluation tools may be included in TAB E.

I.8b.8. Budget. Please refer to section IV.3e. Budget Submission in this document and the PSI for guidance on preparing your budget.

I.8b.9. Working with the Public Affairs Section. An acknowledgement to consult closely with the Public Affairs Section of the U.S. Embassy in the relevant countries to develop plans for project implementation, to select project participants, and to invite representatives of the Embassies to participate in program sessions or site visits. ECA officers can provide information for contacts at U.S. Embassies.

I.8b.10. Acknowledging ECA's Financial Support. An acknowledgement to follow guidance in the PSI entitled "Acknowledgement of ECA's Financial Support and Use of the Department Seal."

I.8b.11. Alumni Outreach. An acknowledgement to comply with "ECA's General Policy Guidance on Alumni Outreach/Follow-on and Engagement" provided in the PSI.

I.8c. Attachments

I.8c.1. Resumes. Resumes of principal staff of all partner organizations involved in the implementation of the project should be included in TAB E. These resumes should not exceed two pages.

I.8c.2. Letters of Commitment and/or Letters of Support. Letters of commitment or support from partner institutions should demonstrate a capacity and commitment to arrange and conduct U.S. and overseas activities and should also be included in TAB E.

I.8c.3. Program Materials. Materials that advance program design and implementation should be included in TAB E. These include:

1. Draft agendas of professional workshops, conferences and seminars including pre-departure orientation and final conference activities.

2. Draft application and recruitment materials.

3. Draft selection and interview materials.

4. Outline of proposed alumni programming.

5. Sample evaluation and survey instruments.

6. Timeline for program implementation.

7. Program promotional materials.

I.8c.4. Unsolicited Documents. Attachments that do not directly address the proposed project or specifically demonstrate relevant past performance (*i.e.,* organization publicity brochures, pamphlets, unsolicited reports) are discouraged.

II. Award Information

II.1. Type of Award: Grant Agreement.

II.2. Fiscal Year Funds: FY2010.

II.3. Approximate Total Funding: $1,650,000.

II.4. Approximate Number of Awards: 3.

II.5. Approximate Average Award: $400,000–$650,000.

III. Eligibility Information

III.1. Eligible applicants: Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 USC 501(c)(3).

III.2. Cost-Sharing or Matching Funds: There is no minimum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost-sharing and funding in support of its programs. When cost-sharing is offered, it is understood and agreed that the applicant must provide the amount of cost-sharing as stipulated in its proposal and later included in an approved agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, the grantee must maintain written records to support all costs which are claimed as contributions, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110 (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost-sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Four Years of Exchange Experience. Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates making awards in an amount from $400,000 and higher to support program and administrative costs required to implement the programs in this RFGP. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition.

III.4. Technical Eligibility: All proposals must comply with the following or they will result in your proposal being declared technically ineligible and given no further consideration in the review process.

- Eligible applicants may not submit more than one proposal in this competition.
- If more than one proposal is received from the same applicant all submissions will be declared technically ineligible and will receive no further consideration in the review process. **Please note:** Applicant

organizations are defined by their legal name, and EIN number as stated on their completed SF–424 form and additional supporting documentation outlined in the Proposal Submission Instructions (PSI) document.

- Eligible applicants may only propose working with the countries and themes listed under each of the themes of this RFGP.
- No funding is available exclusively to send U.S. citizens to conferences or conference type seminars overseas; nor is funding available for bringing foreign nationals to conferences or to routine professional association meetings in the United States.
- Please refer to the Proposal Submission Instruction (PSI) document for additional requirements.

IV. Application and Submission Information

Note: Please read the complete Solicitation Package before sending inquiries or submitting proposals. All applicants are strongly encouraged to consult with the Washington, DC-based State Department contact for the themes and countries listed in this solicitation. Applicants are also strongly encouraged to consult with Public Affairs Officers at U.S. Embassies in relevant countries as they develop proposals responding to this RFGP, and the ECA contact person can provide contact information for the U.S. Embassies. Once the RFGP deadline has passed, Bureau and Embassy staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1. Contact Information to Request a Solicitation Package: Please contact Alice Ross in the Office of Citizen Exchanges, ECA/PE/C, U.S. Department of State, SA–5, 3rd Floor, 2200 C St., NW., Washington, DC 20522–0503, ph: (202) 632–6085, *RossAR@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/PE/C/AF–NEA–WHA–10–53 located at the top of this announcement when making your request. An electronic solicitation package may be obtained from *http://www.grants.gov.* Please see section IV.3f for further information.

IV.2. To Download a Solicitation Package Via the Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/grants/* or from the Grants.gov Web site at *http://www.grants.gov*. Please read all information before downloading.

IV.3. Content and Form of Submission: Applicants must follow all instructions in the Solicitation Package. The Solicitation Package includes both the Request for Grant Proposals (RFGP) and the Proposal Submission Instruction (PSI) document, which consists of required application forms, and standard guidelines for proposal preparation. Applicants should assure that proposals respond to guidance provided in both documents.

IV.3a. DUNS number. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge.

To obtain a DUNS number, go to *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. Proposal Components: All proposals must contain an executive summary, proposal narrative and budget. Please refer to the PSI document for additional formatting and technical requirements.

IV.3c. Non-Profit Status and Documentation: You must have nonprofit status with the IRS at the time of application.

Please note: Effective January 7, 2009, all applicants for ECA Federal assistance awards must include in their application the names of directors and/or senior executives (current officers, trustees, and key employees, regardless of amount of compensation). In fulfilling this requirement, applicants must submit information in one of the following ways:

(1) Those who file Internal Revenue Service Form 990, "Return of Organization Exempt From Income Tax," must include a copy of relevant portions of this form.

(2) Those who do not file IRS Form 990 must submit information above in the format of their choice.

In addition to final program reporting requirements, award recipients will also be required to submit a one-page document, derived from their program reports, listing and describing their grant activities. For award recipients, the names of directors and/or senior executives (current officers, trustees, and key employees), as well as the one-page description of grant activities, will be transmitted by the State Department to OMB, along with other information required by the Federal Funding Accountability and Transparency Act (FFATA), and will be made available to the public by the Office of Management and Budget on its USASpending.gov Web site as part of ECA's FFATA reporting requirements.

If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Additional Information.

IV.3d1. Adherence to All Regulations Governing the J Visa. The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the "Responsible Officer" for the program under the terms of 22 CFR part 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR part 62, organizations receiving awards (either a grant or cooperative agreement) under this RFGP will be third parties "cooperating with or assisting the sponsor in the conduct of the sponsor's program." The actions of recipient organizations shall be "imputed to the sponsor in evaluating the sponsor's compliance with" 22 CFR part 62. Therefore, the Bureau expects that any organization receiving an award under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 *et seq.*

The Bureau of Educational and Cultural Affairs places critically important emphases on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by recipient organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should explicitly state in writing that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR part 62 *et seq.,* including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, recordkeeping, reporting and other requirements. The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program. A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://travel.state.gov/visa/temp/types/types_1267.html* or from: United States

Department of State, Office of Exchange Coordination and Designation, (ECA/EC/D), SA–5, Floor C2, Department of State, Washington, DC 20522–0582.

IV.3d2. Diversity, Freedom and Democracy Guidelines. Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d3. Project Monitoring and Evaluation. This section of the RFGP amplifies the direction given in section I above on proposal framework, which calls for the delineation of objectives and planning for baseline, short term and long term outcome measurement. Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold, at the end of the project and beyond. The Bureau recommends that each proposal include a draft survey questionnaire or other instruments plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the project, learning as a result of the project, changes in personal behavior as a result of the project, and effects of the project on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear objectives and intended outcomes at the outset of a project. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). Note that ECA recommends measurements at three points: the baseline (beginning of grant program) and for short term (end of grant activities) and longer-term outcomes (2–4 months after grant activities are completed). The more that outcomes are "smart" (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between project outputs and outcomes. Outputs are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. Outcomes, in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the emphasis should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of impact):

1. Participant satisfaction with the project and exchange experience.

2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes. Overall, the quality of each monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (*e.g.,* surveys, interviews, tests, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.) Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular project reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Budget Submission. Please follow the guidelines in this section and consult the PSI when preparing the budget submission.

IV.3e.1. Form SF–424A. Applicants must submit SF–424A—"Budget Information—Non-Construction Programs" along with a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2. Allowable costs. Allowable costs for the program include the following:

IV.3e.2a. Travel. International and domestic airfare; airline baggage and seat fees; visas; transit costs; ground transportation costs. Please note that all air travel must be in compliance with the Fly America Act. There is no charge for J–1 visas for participants in Bureau sponsored programs.

IV.3e.2b. Per Diem. For U.S.-based programming, organizations should use the published Federal per diem rates for individual U.S. cities. *Domestic per diem rates* may be accessed at: *http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentType=GSA_BASIC&contentId=17943.* ECA requests applicants to budget realistic costs that reflect the local economy and do not exceed Federal per diem rates. *Foreign per diem rates* can be accessed at: *http://aoprals.state.gov/content.asp?content_id=184&menu_id=78.*

IV.3e.2c. Interpreters. We encourage recruitment of participants coming to

the U.S. on this program who will have good English skills. However, if circumstances warrant the use of interpretation, ECA strongly encourages applicants to hire their own locally based interpreters but they may ask ECA to assign State Department interpreters for U.S.-based activities. One interpreter is typically needed for every four participants who require interpretation. When an applicant proposes to use State Department interpreters, the following expenses should be included in the budget: Published Federal per diem rates (both "lodging" and "M&IE") and "home-program-home" transportation in the amount of $400 per interpreter. Salary expenses for State Department interpreters will be covered by the Bureau and should not be part of an applicant's proposed budget. Bureau funds cannot support interpreters who accompany delegations from their home country or travel internationally. For activities in Africa involving U.S. participants, grantees should work with African-based partners to recruit interpreters and build those costs into their budgets. Eligible costs for interpreters in Africa would include necessary travel, per diem, and honoraria.

IV.3e.2d. Book and Cultural Allowances. Foreign participants are entitled to a one-time cultural allowance of $150 per person, plus a book allowance of $50. Interpreters should be reimbursed up to $150 for expenses when they escort participants to cultural events. U.S. program staff, trainers or participants are not eligible to receive these benefits.

IV.3e.2e. Consultants. Consultants may be used to provide specialized expertise or to make presentations. Honoraria rates should not exceed $250 per day. Organizations are encouraged to cost-share rates that would exceed that figure. Subcontracting organizations may also be employed, in which case the written agreement between the prospective grantee and sub-grantee should be included in the proposal. Such sub-grants should detail the division of responsibilities and proposed costs, and subcontracts should be itemized in the budget.

IV.3e.2f. Room rental. The rental of meeting space should not exceed $250 per day. Any rates that exceed this amount should be cost shared.

IV.3e.2g. Materials. Proposals may contain costs to purchase, develop and translate materials for participants. Costs for high quality translation of materials should be anticipated and included in the budget. Grantee organizations should expect to submit a copy of all program materials to ECA, and ECA support should be acknowledged on all materials developed with its funding.

IV.3e.2h. Equipment. Applicants may propose to use a small amount of grant funds to purchase equipment, such as computers and printers; these costs should be justified in the budget narrative. Costs for furniture are not allowed.

IV.3e.2i. Working meal. Normally, no more than one working meal may be provided during the program. Per capita costs may not exceed $15–$25 for lunch and $20–$35 for dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one. When setting up a "working meal" budget, interpreters should be considered "participants."

IV.3e.2j. Return travel allowance. A return travel allowance of $70 for each foreign participant may be included in the budget. This allowance would cover incidental expenses incurred during international travel.

IV.3e.2k. Health Insurance. Foreign participants will be covered during their participation in the program by the ECA-sponsored Accident and Sickness Program for Exchanges (ASPE), for which the grantee must enroll them. Details of that policy can be provided by the contact officers identified in this solicitation. The premium is paid by ECA and should not be included in the grant proposal budget. However, applicants are permitted to include costs for travel insurance for U.S. participants in the budget.

IV.3e.2l. Wire transfer fees. When necessary, applicants may include costs to transfer funds to partner organizations overseas. Grantees are urged to research applicable taxes that may be imposed on these transfers by host governments.

IV.3e.2m. In-country travel costs for visa processing purposes. Given the requirements associated with obtaining J–1 visas for ECA-supported participants, applicants should include costs for any travel associated with visa interviews or DS–2019 pick-up.

IV.3e.2n. Administrative Costs. Costs necessary for the effective administration of the program may include salaries for grantee organization employees, benefits, and other direct and indirect costs per detailed instructions in the Application Package. While there is no rigid ratio of administrative to program costs, proposals in which the administrative costs do not exceed 25% of the total requested ECA grant funds will be more competitive under the cost effectiveness and cost sharing criterion, per item V.1 below. Proposals should show strong administrative cost sharing contributions from the applicant, the in-country partner and other sources. Please also include in the administrative portion of your budget plans to travel to Washington, DC, to meet with your program officer within the first 45 days after the grant has been awarded.

IV.3f. Application Deadline and Methods of Submission.

Application Deadline Date: May 20, 2010.

Reference Number: ECA/PE/C/AF–NEA–WHA–10–53.

Methods of Submission:

Applications may be submitted in one of two ways: (1.) In hard-copy, via a nationally recognized overnight delivery service (*i.e.,* Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or (2.) electronically through *http://www.grants.gov.* Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1 Submitting Printed Applications. Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will *not* notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to "ECA/EX/PM".

The original and eight (8) copies of the application should be sent to: Program Management Division, ECA–IIP/EX/PM, Ref.: ECA/PE/C–10–01, SA–

5, Floor 4, Department of State, 2200 C Street, NW., Washington, DC 20522–0504.

Applicants submitting hard-copy applications must also submit the "Executive Summary" and "Proposal Narrative" sections of the proposal in text (.txt) or Microsoft Word format on CD–ROM. As appropriate, the Bureau will provide these files electronically to Public Affairs Sections at the U.S. embassies for their review.

IV.3f.2. Submitting Electronic Applications.

Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the "Find" portion of the system.

Please Note: Due to Recovery Act related opportunities, there has been a higher than usual volume of grant proposals submitted through Grants.gov. Potential applicants are advised that the increased volume may affect the grants.gov proposal submission process. As stated in this RFGP, ECA bears no responsibility for applicant timeliness of submission or data errors resulting from transmission or conversion processes for proposals submitted via Grants.gov.

Please follow the instructions available in the "Get Started" portion of the site (*http://www.grants.gov/GetStarted*).

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov.

Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your internet connection. In addition, validation of an electronic submission via Grants.gov can take up to two business days.

Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov. The Grants.gov Web site includes extensive information on all phases/aspects of the Grants.gov process, including an extensive section on frequently asked questions, located under the "For Applicants" section of the Web site. ECA strongly recommends that all potential applicants review thoroughly the Grants.gov Web site, well in advance of submitting a proposal through the Grants.gov system. ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support, *Contact Center Phone:* 800–518–4726, *Business Hours:* Monday–Friday, 7 a.m.–9 p.m. Eastern Time, E-mail: *support@grants.gov.*

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. *There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.*

Please refer to the Grants.gov Web site, for definitions of various "application statuses" and the difference between a submission receipt and a submission validation. Applicants will receive a validation e-mail from grants.gov upon the successful submission of an application. Again, validation of an electronic submission via Grants.gov can take up to two business days.

V. Application Review Information

V.1. Review Process. The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review.

Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance award grants resides with the Bureau's Grants Officer.

V.2 Review Criteria. Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

V.2a. Quality of Program Idea: Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

V.2b. Program Planning and Ability to Achieve Objectives: Program objectives should be stated clearly and should reflect the applicant's expertise in the subject area and region. Objectives should respond to the topics in this announcement and should relate to the current conditions in the target country/countries. A detailed agenda and relevant work plan should explain how objectives will be achieved and should include a timetable for completion of major tasks. The substance of workshops, internships, seminars and/or consulting should be described in detail. Sample schedules should be outlined. Responsibilities of proposed in-country partners should be clearly described. A discussion of how the applicant intends to address language issues should be included, if needed.

V.2c. Institutional Capacity and Track Record: Proposals should include (1) the institution's mission and date of establishment; (2) detailed information about proposed in-country partner(s) and the history of the partnership; (3) an outline of prior awards—U.S. government and/or private support received for the target theme/country/region; and (4) descriptions of experienced staff members who will implement the program. The proposal should reflect the institution's expertise in the subject area and knowledge of the conditions in the target countries. Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals. The Bureau strongly encourages applicants to submit letters of support from proposed in-country partners.

V.2d. Cost Effectiveness and Cost Sharing: Overhead and administrative costs in the proposal budget, including salaries, honoraria and subcontracts for services, should be kept to a minimum. Proposals in which the administrative costs do not exceed 25% of the total requested ECA grant funds will be more competitive (see IV.3e.2 14 for clarification on this). Applicants are strongly encouraged to cost share a portion of overhead and administrative expenses. Cost-sharing, including contributions from the applicant, proposed in-country partner(s), and other sources should be included in the budget request. Proposal budgets that do not reflect cost sharing will be deemed not competitive on this criterion.

V.2e. Support of Diversity: Proposals should demonstrate substantive support

of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities). Applicants should refer to the Bureau's Diversity, Freedom and Democracy Guidelines in the Proposal Submission Instructions (PSI).

V.2f. Follow-on Activities: Applicants should provide a plan to conduct activities after the Bureau-funded project has concluded in order to ensure that Bureau-supported programs are not isolated events. Funds for all post-grant activities must be in the form of contributions from the applicant or sources outside of the Bureau. Costs for these activities must not appear in the proposal budget, but should be outlined in the narrative.

V.2g. Program Monitoring and Evaluation: Proposals should include a detailed plan to monitor and evaluate the program. Program objectives should target clearly defined results in quantitative terms. Competitive evaluation plans will describe how applicant organizations would measure these results, and proposals should include draft data collection instruments (surveys, questionnaires, etc.) in Tab E.

VI. Award Administration Information

VI.1. Award Notices. Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive a Federal Assistance Award (FAA) from the Bureau's Grants Office. The FAA and the original proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The FAA will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application. Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2. Administrative and National Policy Requirements. Terms and Conditions for the Administration of ECA agreements include the following Office of Management and Budget (OMB) guidance:

- Circular A–122, "Cost Principles for Nonprofit Organizations."
- Circular A–21, "Cost Principles for Educational Institutions."
- Circular A–87, "Cost Principles for State, Local and Indian Governments."
- Circular A–110 (Revised), "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations."
- Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.
- Circular A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference *http://www.whitehouse.gov/omb/grants_circulars/*for additional information:

VI.3. Reporting Requirements. You must provide ECA with a hard copy original plus one electronic copy of the following reports:

VI.3a. Final Reports. A final program and financial report no more than 90 days after the expiration of the award;

VI.3b. One-page Report. A concise, one-page final program report summarizing program outcomes no more than 90 days after the expiration of the award. This one-page report will be transmitted to OMB, and be made available to the public via OMB's USAspending.gov Web site—as part of ECA's Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

VI.3c. SF–PPR. A SF–PPR, "Performance Progress Report" Cover Sheet should be submitted with all program reports.

VI.3d. Quarterly reports. Quarterly program and financial reports should be submitted for the duration of the program. For program reports, award recipients will be required to provide reports analyzing their evaluation findings to the Bureau. (Please refer to section IV.3.d.3, "Program Monitoring and Evaluation"). All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request. All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VI.4. Additional Program Data Requirements:

VI.4a. Data on Program participants and activities. Award recipients will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. At a minimum, the data must include the following: Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the agreement or who benefit from the award funding but do not travel.

VI.4b. Travel. Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three work days prior to the official opening of the activity.

VII. Agency Contacts

For questions about this announcement, contact: Jim Ogul, Office of Citizen Exchanges, ECA/PE/C, U.S. Department of State, SA–5, 3rd Floor, 2200 C St., NW., Washington, DC 20522–0503, ph. tel: (202) 632–6055, e-mail: *ogulje@state.gov.* All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C–10–01.

VIII. Other Information

Notice: The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.4 above.

Dated: March 31, 2010.

Maura M. Pally,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 2010–7981 Filed 4–7–10; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6950]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: The U.S./Afghanistan Professional Partnership Program

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C/EUR–SCA–10–52.

Catalog of Federal Domestic Assistance Number: 19.415.

Key Dates:

Application Deadline: May 21, 2010.

Executive Summary: In his December 1, 2009, speech in West Point, New York, President Obama said that a new

diplomatic initiative in Afghanistan would be part of the U.S. strategy to bring peace and stability in the Afghanistan/Pakistan region. As part of this initiative, ECA is seeking proposals for a new program, called "The U.S./Afghanistan Professional Partnership Program." This program will bring young professionals from the two countries together to develop cross cultural relationships and develop professional skills that will positively impact people's lives and will result in stronger ties between the two nations.

Pending availability of funds, the Bureau expects to award one grant for approximately $1,200,000. The project is focused on professionals working in the judicial system and public administration and will be designed to demonstrate best practices, offer professional development opportunities, and support internships at U.S-based workplaces for Afghan professionals. The program will involve provincial and district (state, local) public administration officials, district attorney offices, legal aid offices, case workers, and judges where possible.

I. Funding Opportunity Description

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." Funding for this competition is provided through special FY 2009/FY 2010 supplemental funds that have been appropriated to the Department of State.

General Program Outlines

Language: This program is for English and non-English speaking Afghan participants. English language ability will not be a requirement to participate. Groups of Afghan professionals should be arranged according to language ability/preference (English and Dari). For the Dari-speaking participants, State Department Language Services interpreters will be assigned through the Office of Citizen Exchanges. There will be approximately three interpreters assigned for the group orientation portion of the program and about one interpreter to three Afghan participants for the internship portion of the program. Proposals should budget for the appropriate amount of interpreters. See IV.3e.2c. for specifics on budgeting for interpreters.

Visas: Applicants must demonstrate that they can work with ECA and the Public Affairs Section of the U.S. Embassy in Kabul for the U.S. visas and directly with the Afghan Embassy for its visas (if necessary). ECA will issue the DS–2019 forms required for J visas; see Section IV.3d.1 for additional information related to the administration of J visa programs.

Travel: The grantee will arrange all round-trip international travel, complying with the Fly America Act, and domestic travel arrangements for the participants. All Afghan and American participants must depart and arrive in Afghanistan through Kabul. Proposals should include plans to house the Afghan participants in Kabul for at least one day to coordinate pre-departure and post program briefings with the Public Affairs Staff of the U.S. Embassy.

U.S. Based Programs: The recipients of grant awards will be responsible for implementing programs from four to six weeks in the United States for the Afghan participants. It is envisioned that the Afghan participants will be grouped in delegations of ten who will travel together to the United States. Each delegation of ten Afghan participants will travel at different times throughout the grant period. The Afghan participants will be placed within relevant, reputable, legally-recognized U.S. organizations where they will gain hands-on experience with legal and public administration professions in the United States, and will have the opportunity to establish relationships with U.S. professional counterparts for on-going collaboration. The grantee may want to engage with a partner or sub-grantee to arrange for the internship placement. The grantee should also include cultural enrichment activities as an integral part of the experience. Such activities could include outings to museums, historic sites, sporting events, cultural exhibits, local schools or community events, volunteering and other opportunities to experience American culture and diversity. Short-term homestays to give participants a personal experience of how typical Americans live are highly desirable.

Afghanistan-Based Programs: Proposals should also describe a selection process and logistics for a one to two-week Afghanistan-based program for a smaller number of U.S. participants. The U.S. participants will be selected from among the internship host organizations for the Afghan participants and will travel several months after the Afghans return home. The Afghanistan-based program may include public presentations, joint skills development programs, and media interviews, if possible. All details and specifics on Afghanistan-based programs will be arranged in close coordination with the Public Affairs Section of the U.S. Embassy in Kabul.

Note: Because of the changing nature of the security situation, U.S. participants may not be able to travel to Afghanistan. Therefore, proposals should include a contingency plan to bring U.S. and Afghan participants together in a third country (preferably within the South and Central Asia region) for this program component. See VI.1b for additional information on Assistance Awards in Afghanistan.

Monitoring, Evaluation, and Reporting: The Bureau places high importance on monitoring and evaluation as a means of ensuring and measuring a project's success. Proposals must include a detailed monitoring and evaluation plan that assesses the impact of the project. Please refer to section IV.3d.3. Project Monitoring and Evaluation below.

Follow-up Activities: The grant recipients will develop enhancement activities that reinforce program goals after the participants' return to Afghanistan. This includes informing participants of the Bureau's Alumni program, facilitating their enrollment, and encouraging their on-going participation. Please refer to the PSI for additional information on Alumni, Outreach, and Engagement.

Fiscal Management: Applicants must demonstrate competency to manage all financial aspects of the project, including participant costs and transparent arrangements of sub-grant relationships with partner organizations, if applicable.

Contact ECA: All interested organizations should contact ECA Program Officer Brent Beemer before the submission of proposals. ECA will also put the organizations in contact with appropriate colleagues at the U.S. Embassy in Kabul. Brent Beemer: 202–632–6067, *BeemerBT@state.gov.*

Specific Program Details

Professional Partnerships: The Judicial System and Public Administration.

This program will provide approximately 100 participants from Afghanistan and the United States the

opportunity to study the legal systems and public administration techniques and processes in both countries and for Afghan professionals to take part in internships with legal and public administration professionals in the U.S. Successful programs will achieve the following:

- Demonstrate Afghan and American legal and public administration systems and approaches each country uses at the regional and local levels.
- Share strategies employed by American and Afghan professionals to counter corruption and bureaucratic entanglements in the legal and public administration systems.
- Establish structured interaction among American and Afghan participants designed to develop enduring professional ties.

Proposals should include a comprehensive U.S.-based group educational and internship program for legal and public administrative professionals. One grant will be awarded for this project for a period of two to three years.

Competitive proposals will demonstrate experience and contacts with relevant legal and public administration professionals, organizations, and educational institutes to program the U.S. components of this program. If a subcontractor is proposed for the internship placement, its experience and relevance with public administration needs to be explained. Competitive proposals should also demonstrate an understanding of the structure of the Afghan government, civil service, and legal systems.

Each U.S.-based component will begin with a group orientation (preferably in Washington, DC) with workshops, lectures, and site visits to introduce participants to the basics of the legal system and public administration in the United States. This should be followed by hands-on internship components at appropriate host U.S. work sites to see these practices at work. Internships should be developed for small groups consisting of not more than three persons. A final de-briefing session in Washington, DC, for each group should also be included in the proposal.

Audience: Participants should be professionals, who currently hold positions within administrative or legal bodies, and have at least five years of active experience in the field. **Note:** Afghan groups should be arranged according to the professional level in which they work, and by their language ability. Proposals should demonstrate an ability to implement programs based in the provincial and local levels. Possible audiences for recruitment should include provincial and district (state, local) public administration officials, district attorney staff, legal aid professionals, case workers, and judges where possible.

Afghanistan Recruitment and Selection

Recruitment and selection for this program in Afghanistan is to be closely coordinated with the Public Affairs Section of the U.S. Embassy in Kabul. Proposals can include information on a proposed in-country partner organization that would recruit program participants, and include a proposed plan and budget for this recruitment and selection. However, applicants may ultimately be asked to work with an alternate organization recommended by the Public Affairs Section of the U.S. Embassy in Kabul to recruit program participants. In either case, final selections (including possible interviews of program finalists) should be done in conjunction with the Public Affairs Section. All participants must be approved by ECA and the Public Affairs Section in Kabul.

II. Award Information

Type of Award: Grant Agreement.

Fiscal Year Funds: 2010.

Approximate Total Funding: $1,200,000 (pending availability of funds).

Approximate Number of Awards: One.

Approximate Average Award: $1,200,000.

Anticipated Award Date: August 1, 2010 (pending availability of funds).

Anticipated Project Completion Date: September 1, 2013.

Additional Information: At this time, support for this program is being provided from special one-time FY 2009/FY 2010 supplemental funds that have been appropriated to the Department. In the event that additional funds become available in fiscal years 2011 and 2012, and pending successful implementation of the FY 2010 funded program, ECA reserves the right to renew this grant for two additional fiscal years before openly competing it again.

III. Eligibility Information

III.1. Eligible applicants: Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds: There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements:

(a) Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates making one award for approximately $1,200,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

(b) Technical Eligibility: Applicants may only submit one proposal under this competition. If more than one proposal is received from the same applicant, all submissions will be declared technically ineligible and will receive no further consideration in the review process. **Please note:** Applicant organizations are defined by their legal name, and EIN number as stated on their completed SF–424 form and additional supporting documentation outlined in the Proposal Submission Instructions (PSI) document.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1 Contact Information To Request an Application Package: Please contact

the Office of Citizen Exchanges, ECA/PE/C, SA–5, Third Floor, U.S. Department of State, 2200 C Street, NW., Washington, DC 20522–0504, (202) 632–6067, *BeemerBT@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/PE/C/EUR–SCA–10–52 located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required application forms, and standard guidelines for proposal preparation.

Please specify Brent Beemer and refer to the Funding Opportunity Number ECA/PE/C/EUR–SCA–10–52 located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package via Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/grants/open2.html,* or from the Grants.gov Web site at *http://www.grants.gov*.

Please read all information before downloading.

IV.3. Content and Form of Submission: Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. "Application Deadline and Methods of Submission" section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please refer to the solicitation package. It contains the mandatory Proposal Submission Instructions (PSI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. **Please note:** Effective January 7, 2009, all applicants for ECA Federal assistance awards must include in their application the names of directors and/or senior executives (current officers, trustees, and key employees, regardless of amount of compensation). In fulfilling this requirement, applicants must submit information in one of the following ways:

(1) Those who file Internal Revenue Service Form 990, "Return of Organization Exempt From Income Tax," must include a copy of relevant portions of this form.

(2) Those who do not file IRS Form 990 must submit information above in the format of their choice.

In addition to final program reporting requirements, award recipients will also be required to submit a one-page document, derived from their program reports, listing and describing their grant activities. For award recipients, the names of directors and/or senior executives (current officers, trustees, and key employees), as well as the one-page description of grant activities, will be transmitted by the State Department to OMB, along with other information required by the Federal Funding Accountability and Transparency Act (FFATA), and will be made available to the public by the Office of Management and Budget on its USASpending.gov Web site as part of ECA's FFATA reporting requirements.

If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1. Adherence to All Regulations Governing the J Visa.

The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the "Responsible Officer" for the program under the terms of 22 CFR part 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR part 62, organizations receiving awards (either a grant or cooperative agreement) under this RFGP will be third parties "cooperating with or assisting the sponsor in the conduct of the sponsor's program." The actions of recipient organizations shall be "imputed to the sponsor in evaluating the sponsor's compliance with" 22 CFR part 62. Therefore, the Bureau expects that any organization receiving an award under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 *et seq.*

The Bureau of Educational and Cultural Affairs places critically important emphases on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by recipient organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should *explicitly state in writing* that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR part 62 *et seq.,* including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, recordkeeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: Office of Designation, ECA/EC/D, SA–5, Floor C2, Department of State, Washington, DC 20522–0582.

IV.3d.2. Diversity, Freedom and Democracy Guidelines. Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully

enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation. Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the recipient organization will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are "smart" (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes. Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes,* in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.
2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.
3. Participant behavior, demonstrating concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.
4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (i.e., surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Recipient organizations will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit SF–424A—"Budget Information—Non-Construction Programs" along with a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification

IV.3e.2. Allowable costs for the program include the following:

IV.3e.2a. Travel. International and domestic airfare; airline baggage and seat fees; visas; transit costs; ground transportation costs. Please note that all air travel must be in compliance with the Fly America Act. There is no charge for J–1 visas for participants in Bureau sponsored programs.

IV.3e.2b. Per Diem. For U.S.-based programming, organizations should use the published Federal per diem rates for individual U.S. cities. *Domestic per diem rates* may be accessed at: *http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentType=GSA_BASIC&contentId=17943.* ECA requests applicants to budget realistic costs that reflect the local economy and do not exceed Federal per diem rates. *Foreign per diem rates* can be accessed at: *http://aoprals.state.gov/content.asp?content_id=184&menu_id=78.*

IV.3e.2c. Interpreters. As stated previously, ECA anticipates that most participants coming to the U.S. on this program will not have command of English. ECA is requiring that eventual award recipients ask ECA to assign State Department interpreters for this project. One interpreter is typically needed for every four participants who require interpretation. When an applicant proposes to use State Department interpreters, the following expenses should be included in the budget: Published Federal per diem rates (both "lodging" and "M&IE") and "home-program-home" transportation in the amount of $400 per interpreter. Salary expenses for State Department interpreters will be covered by the Bureau and should not be part of an applicant's proposed budget. Bureau funds cannot support interpreters who accompany delegations from their home country or travel internationally.

IV.3e.2d. Book and Cultural Allowances. Foreign participants are entitled to a one-time cultural allowance of $150 per person, plus a book allowance of $50. Interpreters should be reimbursed up to $150 for expenses when they escort participants to cultural events. U.S. program staff, trainers or participants are not eligible to receive these benefits.

IV.3e.2e. Consultants. Consultants may be used to provide specialized expertise or to make presentations. Honoraria rates should not exceed $250 per day. Organizations are encouraged to cost-share rates that would exceed

that figure. Subcontracting organizations may also be employed, in which case the written agreement between the prospective grantee and sub-grantee should be included in the proposal. Such sub-grants should detail the division of responsibilities and proposed costs, and subcontracts should be itemized in the budget.

IV.3e.2f. Room rental. The rental of meeting space should not exceed $250 per day. Any rates that exceed this amount should be cost shared.

IV.3e.2g. Materials. Proposals may contain costs to purchase, develop and translate materials for participants. Costs for high quality translation of materials should be anticipated and included in the budget. Grantee organizations should expect to submit a copy of all program materials to ECA, and ECA support should be acknowledged on all materials developed with its funding.

IV.3e.2h. Equipment. Applicants may propose to use grant funds to purchase equipment, such as computers and printers; these costs should be justified in the budget narrative. Costs for furniture are not allowed.

IV.3e.2i. Working meal. Normally, no more than one working meal may be provided during the program. Per capita costs may not exceed $15–$25 for lunch and $20–$35 for dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one. When setting up a budget, interpreters should be considered "participants."

IV.3e.2j. Return travel allowance. A return travel allowance of $70 for each foreign participant may be included in the budget. This allowance would cover incidental expenses incurred during international travel.

IV.3e.2k. Health Insurance. Foreign participants will be covered during their participation in the program by the ECA-sponsored Accident and Sickness Program for Exchanges (ASPE), for which the grantee must enroll them. Details of that policy can be provided by the contact officers identified in this solicitation. The premium is paid by ECA and should not be included in the grant proposal budget. However, applicants are permitted to include costs for travel insurance for U.S. participants in the budget.

IV.3e.2l. Wire transfer fees. When necessary, applicants may include costs to transfer funds to partner organizations overseas. Grantees are urged to research applicable taxes that may be imposed on these transfers by host governments.

IV.3e.2m. In-Country Travel Costs for Visa Processing Purposes. Given the requirements associated with obtaining J–1 visas for ECA-supported participants, applicants should include costs for any travel associated with visa interviews or DS–2019 pick-up.

IV.3e.2n. Administrative Costs. Costs necessary for the effective administration of the program may include salaries for grantee organization employees, benefits, and other direct and indirect costs per detailed instructions in the Application Package. While there is no rigid ratio of administrative to program costs, proposals in which the administrative costs do not exceed 25% of the total requested ECA grant funds will be more competitive under the cost effectiveness and cost sharing criterion, per item V.1 below. Proposals should show strong administrative cost sharing contributions from the applicant, the in-country partner and other sources. Please also include in the administrative portion of your budget plans to travel to Washington, DC, to meet with your program officer within the first 45 days after the grant has been awarded. Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Application Deadline and Methods of Submission:

Application Deadline Date: May 21, 2010.

Reference Number: ECA/PE/C/EUR–SCA–10–52.

Methods of Submission: Applications may be submitted in one of two ways:

(1) In hard-copy, via a nationally recognized overnight delivery service (*i.e.,* Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2) Electronically through *http://www.grants.gov.*

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1. Submitting Printed Applications. Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will *not* notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to "ECA/EX/PM".

The original and 10 copies of the application should be sent to: Program Management Division, ECA–IIP/EX/PM, Ref.: ECA/PE/C/EUR–SCA–10–52, Department of State, 2200 C Street, NW., Washington, DC 20522–0504.

Applicants submitting hard-copy applications must also submit the "Executive Summary" and "Proposal Narrative" sections of the proposal in text (.txt) or Microsoft Word format on CD–ROM. As appropriate, the Bureau will provide these files electronically to Public Affairs Section(s) at the U.S. embassy(ies) for its (their) review.

IV.3f.2. Submitting Electronic Applications. Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the "Find" portion of the system.

Please Note: ECA bears no responsibility for applicant timeliness of submission or data errors resulting from transmission or conversion processes for proposals submitted via Grants.gov.

Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*).

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov.

Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your internet connection. In addition, validation of an electronic submission via Grants.gov can take up to two business days.

Therefore, we strongly recommend that you not wait until the application

deadline to begin the submission process through Grants.gov.

The Grants.gov Web site includes extensive information on all phases/aspects of the Grants.gov process, including an extensive section on frequently asked questions, located under the "For Applicants" section of the Web site. ECA strongly recommends that all potential applicants review thoroughly the Grants.gov Web site, well in advance of submitting a proposal through the Grants.gov system. ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support; *Contact Center Phone:* 800–518–4726; *Business Hours:* Monday–Friday, 7 a.m.–9 p.m. Eastern Time; *E-mail: support@grants.gov.*

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. *There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.*

Please refer to the Grants.gov Web site, for definitions of various "application statuses" and the difference between a submission receipt and a submission validation. Applicants will receive a validation e-mail from grants.gov upon the successful submission of an application. Again, validation of an electronic submission via Grants.gov can take up to two business days. *Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.* ECA will *not* notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov Web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Optional—IV.3f.3. You may also state here any limitations on the number of applications that an applicant may submit and make it clear whether the limitation is on the submitting organization, individual program director or both.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance award grants resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. Quality of the Program Idea: Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

2. Program Planning and Ability to Achieve Objectives: Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above. Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

3. Institutional Capacity and Record: Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals. Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau awards (grants or cooperative agreements) as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

4. Cost-effectiveness and Cost-sharing: The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

5. Support of Diversity: Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

6. Project Evaluation: Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended.

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive a Federal Assistance Award (FAA) from the Bureau's Grants Office. The FAA and the original proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The FAA will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.1b. The following additional requirements apply to this project:

Special Provision for Performance in a Designated Combat Area (Currently Iraq and Afghanistan).

All Recipient personnel deploying to areas of combat operations, as designated by the Secretary of Defense (currently Iraq and Afghanistan), under assistance awards over $100,000 or performance over 14 days must register in the Department of Defense maintained Synchronized Pre-deployment and Operational Tracker (SPOT) system. Recipients of federal assistance awards shall register in SPOT before deployment, or if already in the designated operational area, register upon becoming an employee under the assistance award, and maintain current data in SPOT. Information on how to

register in SPOT will be available from your Grants Officer or Grants Officer Representative during the final negotiation and approval stages in the federal assistance awards process. Recipients of federal assistance awards are advised that adherence to this policy and procedure will be a requirement of all final federal assistance awards issued by ECA.

Recipient performance may require the use of armed private security personnel. To the extent that such private security contractors (PSCs) are required, grantees are required to ensure they adhere to Chief of Mission (COM) policies and procedures regarding the operation, oversight, and accountability of PSCs.

VI.2. Administrative and National Policy Requirements: Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, "Cost Principles for Nonprofit Organizations."

Office of Management and Budget Circular A–21, "Cost Principles for Educational Institutions."

OMB Circular A–87, "Cost Principles for State, Local and Indian Governments".

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants; http://fa.statebuy.state.gov.*

VI.3. Reporting Requirements: You must provide ECA with a hard copy original plus one electronic copy of the following reports:

(1) A final program and financial report no more than 90 days after the expiration of the award;

(2) A concise, one-page final program report summarizing program outcomes no more than 90 days after the expiration of the award. This one-page report will be transmitted to OMB, and be made available to the public via OMB's USAspending.gov Web site—as part of ECA's Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

(3) A SF–PPR, "Performance Progress Report" Cover Sheet with all program reports.

Award recipients will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3)) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VI.4. Optional Program Data Requirements: Award recipients will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. As a minimum, the data must include the following:

(1) Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the agreement or who benefit from the award funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three work days prior to the official opening of the activity.

VII. Agency Contacts

For questions about this announcement, contact: Brent Beemer, Office of Citizen Exchanges, ECA/PE/C, Third Floor SA–5, Third Floor, U.S. Department of State, 2200 C Street, NW., Washington, DC 20522–0504.

Brent Beemer: 202–632–6067, *BeemerBT@state.gov*. All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/EUR–SCA–10–52.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: April 2, 2010.

Maura M. Pally,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 2010–7979 Filed 4–7–10; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA 2010–0005–N–8]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking approval of the following information collection activities. Before submitting these information collection requirements for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than June 7, 2010.

ADDRESSES: Submit written comments on any or all of the following proposed activities by mail to either: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 17, Washington, DC 20590, or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, "Comments on OMB control number 2130–New." Alternatively, comments may be transmitted via facsimile to (202) 493–6216 or (202) 493–6497, or via e-mail to Mr. Brogan at *Robert.Brogan@dot.gov,* or

to Ms. Toone at *Kimberly.Toone@dot.gov.* Please refer to the assigned OMB control number and the title of the information collection in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292) or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

The Paperwork Reduction Act of 1995 (PRA), Pub. L. 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days notice to the public for comment on information collection activities before seeking approval of such activities by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding: (i) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses). *See* 44 U.S.C. 3506(c)(2)(A)(I)–(iv); 5 CFR 1320.8(d)(1)(I)–(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) Reduce reporting burdens; (ii) ensure that it organizes information collection requirements in a "user friendly" format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

Below is a brief summary of the proposed information collection activities that FRA will submit for clearance by OMB as required under the PRA:

Title: Alleged Violation Reporting Form.

OMB Control Number: 2130–New.

Abstract: The Alleged Violation Reporting Form is a response to section 307(b) of the Rail Safety Improvement Act of 2008, signed into law by President George W. Bush on October 16, 2008, which requires Federal Railroad Administration (FRA) to "provide a mechanism for the public to submit written reports of potential violations of Federal railroad safety and hazardous materials transportation laws, regulations, and orders to the Federal Railroad Administration." The Alleged Violation Reporting Form allows the general public to submit alleged violations directly to FRA. The form's goal is to allow FRA to collect information necessary to investigate the alleged violation and to provide follow up correspondence with the submitting party.

The Alleged Violation Reporting Form collects the name, phone number and e-mail of the person submitting the alleged violations; the preferred method by which to contact the person; the railroad or company name that committed the alleged violation, the date and time the alleged violation occurred; the location the alleged violation occurred; and details about the violation. All information is voluntary. FRA will collect the information via a form on the FRA public Web site. FRA may share the information collected with FRA employees, State DOT partners, and law enforcement agencies.

Form Number(s): FRA F 6180.151.

Affected Public: U.S. Residents.

Respondent Universe: 1,000 Individuals.

Frequency of Submission: On occasion.

Reporting Burden:

Form number	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
Alleged Violation Reporting Form (Form FRA F 6180.151).	1,000 American Residents.	400 forms	10 minutes	67 hours

Total Responses: 400.

Estimated Total Annual Burden: 67 hours.

Status: Regular Review.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on April 2, 2010.

Kimberly Coronel,

Director, Office of Financial Management, Federal Railroad Administration.

[FR Doc. 2010–7900 Filed 4–7–10; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub-No. 291X)]

Union Pacific Railroad Company—Discontinuance of Trackage Rights Exemption—in Alameda County, CA

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue local trackage rights over 1.80 miles of rail line owned

by Alameda Belt Line (ABL) [1] between milepost 0.00 near Clement Avenue and milepost 1.80 near Sherman Street in the City of Alameda, Alameda County, CA (City).[2] The line traverses United States Postal Service Zip Code 94501.

UP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service on the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on May 8, 2010, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2) [3] must be filed by April 19, 2010.[4] Petitions to reopen must be filed by April 28, 2010, with: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to UP's representative: Mack H. Shumate, Jr., 101 North Wacker Drive, Room 1920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: April 2, 2010.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2010–7854 Filed 4–7–10; 8:45 am]

BILLING CODE 4915–01–P

[1] ABL is jointly owned by UP and Burlington Northern and Santa Fe Railway Company (BNSF). UP acquired the trackage rights in *Union Pacific Railroad Company—Trackage Rights Exemption—Alameda Belt Line,* STB Finance Docket No. 33682 (STB served Nov. 24, 1998). Once the exemption became effective, UP handled rail cars as the operating agent for BNSF.

[2] UP states that the City has negotiated a purchase agreement with it and BNSF to purchase the line and, as a condition to closing the agreement, the City desires that UP and BNSF discontinue service over the line.

[3] Each OFA must be accompanied by the filing fee, which currently is set at $1,500. *See* 49 CFR 1002.2(f)(25).

[4] Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Availability regarding a Finding of No Significant Impact (FONSI): U.S. 421 Milton-Madison Bridge replacement.

SUMMARY: The FHWA, in coordination with the Kentucky Transportation Cabinet (KYTC) and Indiana Department of Transportation (INDOT), is issuing a Finding of No Significant Impact (FONSI) for improvement to the U.S. 421 Ohio River Bridge between Milton, KY and Madison, IN. The project is needed to improve the functionally obsolete/structurally deficient bridge; to maintain cross-river mobility and community connectivity between Milton and Madison; and to improve safety.

FOR FURTHER INFORMATION CONTACT: Federal Highway Administration, Kentucky Division: Mr. Greg Rawlings, Transportation Specialist, 330 West Broadway, Frankfort, KY 40601–1981. Greg may be contacted by phone at 502–223–6728, or by e-mail at *Gregory.Rawlings@dot.gov.*

The FHWA, in coordination with the Kentucky Transportation Cabinet, has determined that the preferred alternative, replacement of the historic truss superstructure with a new 40-foot wide superstructure that mimics the historic profile, will have no significant impact on the human environment. The new cross-section includes 8-foot shoulders, bike lanes, and a cantilever sidewalk. Improvements will require the bridge be closed to traffic for an estimated 12 months. During this time, a free ferry service will maintain connectivity between the two communities. Extensive Section 106 coordination resulted in a Section 106 Memorandum of Agreement. The project results in Section 4(f) impacts to the historic bridge, the public boat ramp in Milton (net benefit use), and Madison's city campground (net benefit use). A public park at the foot of the bridge in Milton will require a de minimis use if used for a construction staging area. This Finding of No Significant Impact (FONSI) is based on the Environmental Assessment (EA) which has been independently evaluated by the FHWA and determined to adequately and accurately discuss the need, environmental issues, and impacts of the proposed project and appropriate mitigation measures. It provides sufficient evidence and analysis for determining that an EIS is not required. The FHWA takes full responsibility for the accuracy, scope, and content of the EA, FONSI, and other supporting documents.

Electronic Access: An electronic copy of the EA and FONSI may be downloaded from the project Web site at *http://www.mlltonmadisonbridge. corn/project-documents.aspx.*

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on March 29, 2010.

Jose Sepulveda,

Division Administrator.

[FR Doc. 2010–7653 Filed 4–7–10; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Membership in the National Parks Overflights Advisory Group Aviation Rulemaking Committee

ACTION: Notice.

SUMMARY: By **Federal Register** notice (See 75 FR 1834–1835; January 13, 2010) the National Park Service (NPS) and the Federal Aviation Administration (FAA) invited interested persons to apply to fill a vacant position on the National Parks Overflights Advisory Group (NPOAG) Aviation Rulemaking Committee (ARC). That previous notice invited interested persons to apply to fill the vacancy representing commercial air tour concerns due to the incumbent member's completion of a three-year term appointment on May 19, 2010.

This notice informs the public of the person selected to fill the vacancy on the NPOAG ARC.

FOR FURTHER INFORMATION CONTACT: Barry Brayer, Special Programs Staff, Federal Aviation Administration, Western-Pacific Region Headquarters, P.O. Box 92007, Los Angeles, CA

90009–2007, telephone: (310) 725–3800, e-mail: *Barry.Brayer@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The National Parks Air Tour Management Act of 2000 (the Act) was enacted on April 5, 2000, as Public Law 106–181. The Act required the establishment of the advisory group within 1 year after its enactment. The NPOAG was established in March 2001. The advisory group is comprised of a balanced group of representatives of general aviation, commercial air tour operations, environmental concerns, and Native American tribes. The Administrator of the FAA and the Director of NPS (or their designees) serve as ex officio members of the group. Representatives of the Administrator and Director serve alternating 1-year terms as chairman of the advisory group.

In accordance with the Act, the advisory group provides "advice, information, and recommendations to the Administrator and the Director—

(1) On the implementation of this title [the Act] and the amendments made by this title; (2) On commonly accepted quiet aircraft technology for use in commercial air tour operations over a national park or tribal lands, which will receive preferential treatment in a given air tour management plan; (3) On other measures that might be taken to accommodate the interests of visitors to national parks; and (4) At the request of the Administrator and the Director, safety, environmental, and other issues related to commercial air tour operations over a national park or tribal lands."

Membership

The current NPOAG ARC is made up of one member representing general aviation, three members representing the commercial air tour industry, four members representing environmental concerns, and two members representing Native American interests. Current members of the NPOAG ARC are as follows:

Heidi Williams representing general aviation; Alan Stephen, Elling Halvorson, and Matthew Zuccaro representing commercial air tour concerns; Chip Dennerlein, Greg Miller, Kristen Brengel, and Bryan Faehner representing environmental interests; and Rory Majenty and Ray Russell representing Native American tribes.

Selection

Selected to fill this vacancy, for an additional term, is returning member Elling Halvorson. Mr. Halvorson's term begins on May 20, 2010. The term of service for NPOAG ARC members is 3 years.

Issued in Hawthorne, CA, on March 30, 2010.

Barry Brayer,

Manager Special Programs Staff, Western-Pacific Region.

[FR Doc. 2010–7645 Filed 4–7–10; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Credit for Renewable Electricity Production, Refined Coal Production, and Indian Coal Production, and Publication of Inflation Adjustment Factors and Reference Prices for Calendar Year 2010; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to publication of inflation adjustment factors and reference prices for calendar year 2010.

SUMMARY: This document contains a correction to publication of inflation adjustment factors and reference prices for calendar year 2010 that was published in the **Federal Register** on Thursday, April 1, 2010 at 75 FR 16576 determining the availability of the credit for renewable electricity production, refined coal production, and Indian coal production under section 45.

FOR FURTHER INFORMATION CONTACT: Philip Tiegerman, (202) 622–3110 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The publication of inflation adjustment factors and reference prices for calendar year 2010 that is the subject of this correction is required by section 45(e)(2)(a) of the Internal Revenue Code (26 U.S.C. 45(e)(2)(A)), section 45(e)(8)(C) (26 U.S.C. 45(e)(8)(C)), and section 45(e)(10)(C) (26 U.S.C. 45(e)(10)(C)).

Need for Correction

As published, the publication of inflation adjustment factors and reference prices for calendar year 2010 contains an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of inflation adjustment factors and reference prices for calendar year 2010, which was the subject of FR Doc. 2010–7263, is corrected as follows:

On page 16576, column 3, under the paragraph heading "*Credit Amount by Qualified Energy Resource and Facility, Refined Coal, and Indian Coal:*", Line 26, the language "is 2.15 cents per kilowatt hour on the" is corrected to read "is 2.2 cents per kilowatt hour on the".

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2010–7931 Filed 4–7–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Designation of Two Individuals Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control ("OFAC") is publishing the names of two newly designated individuals whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism."

DATES: The designation by the Director of OFAC of the two individuals identified in this notice, pursuant to Executive Order 13224, is effective on April 1, 2010.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

On September 23, 2001, the President issued Executive Order 13224 (the "Order") pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706, and the United Nations Participation Act of 1945, 22 U.S.C. 287c. In the Order, the President declared a national emergency to address grave acts of terrorism and threats of terrorism committed by

foreign terrorists, including the September 11, 2001, terrorist attacks in New York, Pennsylvania, and at the Pentagon. The Order imposes economic sanctions on persons who have committed, pose a significant risk of committing, or support acts of terrorism. The President identified in the Annex to the Order, as amended by Executive Order 13268 of July 2, 2002, 13 individuals and 16 entities as subject to the economic sanctions. The Order was further amended by Executive Order 13284 of January 23, 2003, to reflect the creation of the Department of Homeland Security.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in or hereafter come within the United States or the possession or control of United States persons, of: (1) Foreign persons listed in the Annex to the Order; (2) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States; (3) persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order; and (4) except as provided in section 5 of the Order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, deems appropriate in the exercise of his discretion, persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to the Order or determined to be subject to the Order or to be otherwise associated with those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order.

On April 1, 2010 the Director of OFAC, in consultation with the Departments of State, Homeland Security, Justice and other relevant agencies, designated, pursuant to one or more of the criteria set forth in subsections 1(b), 1(c) or 1(d) of the Order, two individuals whose property and interests in property are blocked pursuant to Executive Order 13224.

The list of designees is as follows:

AL-DULAYMI, Ahmad Khalaf Shabib (a.k.a. ALDOLEMY, Ahmad Khalaf Shebab; a.k.a. AL-DULAYMI, Ahmad Khalaf Shabib al-Asafi; a.k.a. AL-DULAYMI, Ahmad Khalaf Shabib al'Issawi; a.k.a. AL-DULAYMI, Ahmad Shabib; a.k.a. AL-ISAWI, Ahmad Khalaf Abd Shabib; a.k.a. AL-ISSAWI, Ahmad Khalaf Shabib; a.k.a. SHABIB, Ahmad Khalaf; a.k.a. SHABIB, Ahmad Khalaf Abd; a.k.a. SHADID, Ahkmad Kalaf; a.k.a. "AHMAD, Abu Usama"; a.k.a. "AHMAD, Hajji"; a.k.a. "ALDOLEMY, Ahmed"; a.k.a. "AL-ISAWI, Ahmad"; a.k.a. "SHABSHAR, Abu"; a.k.a. "SULAYMAN, Abu"; a.k.a. "WA'IL, Hajji"), London, United Kingdom; al-Fallujah, Iraq; DOB 25 May 1972; POB al-Fallujah, Iraq; citizen United Kingdom; nationality Iraq; Passport C00168817 issued 8 Dec 2005 expires 25 May 2015; alt. Passport G1407597 (Iraq) (individual) [SDGT].

SELEK, Atilla (a.k.a. "MUAZ"); DOB 28 Feb 1985; POB Ulm, Germany; nationality Germany; National ID No. 702092811 (Germany) expires 6 Apr 2010; Passport 702142921 (Germany) expires 3 Dec 2011; Passport and National ID were issued in Ulm, Germany. Currently incarcerated at JVA Bruchsal prison. (individual) [SDGT].

Dated: April 1, 2010.

Barbara C. Hammerle,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2010–7939 Filed 4–7–10; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Notice of Allocation Availability (NOAA) Inviting Applications for the CY 2010 Allocation Round of the New Markets Tax Credit Program

Funding Opportunity Title: Notice of Allocation Availability (NOAA) Inviting Applications for the CY 2010 Allocation Round of the New Markets Tax Credit Program.

Announcement Type: Initial announcement of tax credit allocation availability.

DATES: Electronic applications must be received by 5 p.m. ET on June 2, 2010. Applications sent by mail, facsimile or other form will not be accepted. Please note the Community Development Financial Institutions Fund (the CDFI Fund) will only accept applications and attachments (*i.e.,* signature page, investor letters and organizational charts) in electronic form (see Section IV.D. of this NOAA for more details). Applications must meet all eligibility and other requirements and deadlines, as applicable, set forth in this NOAA. Allocation applicants that are not yet certified as Community Development Entities (CDEs) must submit an application for certification as a CDE that is postmarked on or before April 23, 2010 (see Section III of this NOAA for more details).

Executive Summary: Subject to authorization from Congress in 2010, this NOAA is issued in connection with the calendar year 2010 tax credit allocation round of the New Markets Tax Credit (NMTC) Program, as initially authorized by Title I, subtitle C, section 121 of the Community Renewal Tax Relief Act of 2000 (Pub. L. 106–554) and amended by section 221 of the American Jobs Creation Act of 2004 (Pub. L. 108–357), section 101 of the Gulf Opportunity Zone Act of 2005 (Pub. L. 108–357), and Division A, section 102 of the Tax Relief and Health Care Act of 2006 (Pub. L. 109–432) (the Act). Through the NMTC Program, the CDFI Fund provides authority to CDEs to offer an incentive to investors in the form of tax credits over seven years, which is expected to stimulate the provision of private investment capital that, in turn, will facilitate economic and community development in Low-Income Communities. Through this NOAA, the CDFI Fund announces, subject to authorization, the availability of up to $5 billion of NMTC authority authorized by the Act.

In this NOAA, the CDFI Fund specifically addresses how an entity may apply to receive an allocation of NMTCs, the competitive procedure through which NMTC Allocations will be made, and the actions that will be taken to ensure that proper allocations are made to appropriate entities.

I. Allocation Availability Description

A. Programmatic Changes

1. *Allocation Amounts:* As described in Section IIA, the CDFI Fund anticipates that it will provide allocation awards of not more than $150 million per applicant.

2. *Prior QEI Issuance Requirements:* In order to be eligible to apply for NMTC allocations in the 2010 round, as described in Section III.A.2(a), applicants that have received NMTC allocation awards in previous rounds

are required to meet minimum Qualified Equity Investment (QEI) issuance thresholds with respect to their prior-year allocations. These thresholds have been revised in comparison to the 2009 NOAA.

3. *Affiliated Governmental Entities:* As stated in Section III.A.4 of the NOFA, in certain circumstances, the CDFI Fund may allow multiple entities that are Controlled by the same governmental entity to submit applications in the same round.

4. *Electronic Application Submission:* As stated in Sections III.C and III.D of this NOFA, the CDFI Fund will require the application and all attachments to the application to be submitted electronically.

5. *Application Selection Criteria:* In August of 2009, in accordance with the requirements of the Paperwork Reduction Act (PRA), 74 FR 38482, the CDFI Fund solicited public comments with respect to the NMTC application. As a result of comments received, the CDFI Fund has modified the contents of its application form and, in some cases, its application review criteria. These modifications are reflected in Section V.A of this NOAA.

6. *Ensuring Rural Proportionality:* As stated in Section V.C of this NOFA, the CDFI Fund may enlarge the applicant review pool to include more Rural CDEs, if necessary to ensure that 20 percent of the aggregate NMTC investments are made in non-metropolitan areas.

B. *Program guidance and regulations:* This NOAA provides guidance for the application and allocation of NMTCs for the eighth round of the NMTC Program and should be read in conjunction with: (i) Guidance published by the CDFI Fund on how an entity may apply to become certified as a CDE (66 FR 65806, December 20, 2001); (ii) the final regulations issued by the Internal Revenue Service (26 CFR 1.45D–1, published on December 28, 2004) and related guidance, notices and other publications; and (iii) the application and related materials for this eighth NMTC Program allocation round. All such materials may be found on the CDFI Fund's Web site at *http://www.cdfifund.gov.* The CDFI Fund encourages applicants to review these documents. Capitalized terms used, but not defined, in this NOAA shall have the respective meanings assigned to them in the allocation application, IRC § 45D or the IRS regulations.

II. Allocation Information

A. *Allocation amounts:* Pursuant to the Act, the CDFI Fund expects that it may allocate to CDEs the authority to issue to their investors up to the aggregate amount of $5.0 billion in equity as to which NMTCs may be claimed, as permitted under IRC § 45D(f)(1)(D). Pursuant to this NOAA, the CDFI Fund anticipates that it will not issue more than $150 million in tax credit allocation authority per applicant. The CDFI Fund, in its sole discretion, reserves the right to allocate amounts in excess of or less than the anticipated maximum allocation amount should the CDFI Fund deem it appropriate. In order to receive an allocation in excess of the $150 million cap, an applicant, at a minimum, will need to demonstrate that: (i) No part of its strategy can be successfully implemented without an allocation in excess of the applicable cap; and/or (ii) its strategy will produce extraordinary community impact. The CDFI Fund reserves the right to allocate tax credit authority to any, all, or none of the entities that submit an application in response to this NOAA, and in any amount it deems appropriate.

B. *Types of awards:* NMTC Program awards are made in the form of tax credit authority.

C. *Allocation Agreement:* Each Allocatee under this NOAA must sign an Allocation Agreement before the NMTC Allocation is effective. The Allocation Agreement contains the terms and conditions of the allocation. For further information, see Section VI of this NOAA.

III. Eligibility

A. *Eligible applicants:* IRC § 45D specifies certain eligibility requirements that each applicant must meet to be eligible to apply for an allocation of NMTCs. The following sets forth additional detail and certain additional dates that relate to the submission of applications under this NOAA for the $5.0 billion in general NMTC allocation authority.

1. *CDE certification:* For purposes of this NOAA, the CDFI Fund will not consider an application for an allocation of NMTCs unless: (a) The applicant is certified as a CDE at the time the CDFI Fund receives its NMTC Program allocation application; or (b) the applicant submits an application for certification as a CDE that is postmarked on or before April 26, 2010. Applicants for certification may obtain a CDE certification application through the CDFI Fund's Web site at *http://www.cdfifund.gov.* Applications for CDE certification must be submitted as instructed in the application form. An applicant that is a community development financial institution (CDFI) or a specialized small business investment company (SSBIC) does not need to submit a CDE certification application; however, it must register as a CDE on the CDFI Fund's Web site on or before 5 p.m. ET on April 26, 2010.

The CDFI Fund will not provide allocations of NMTCs to applicants that are not certified as CDEs. See Section IV.D.1.(c) of this NOAA for further requirements relating to postmarks.

If an applicant that has already been certified as a CDE wishes to change its designated CDE service area, it must submit its request for such a change to the CDFI Fund; and the request must be received by the CDFI Fund by 5 p.m. ET on June 2, 2010. The CDE service area change request must be sent from the applicant's authorized representative and include the applicable CDE control number, the revised service area designation, and an updated accountability chart that reflects representation from Low-Income Communities in the revised service area. The service area change request must be sent by e-mail to *cme@cdfi.treas.gov* or by facsimile to (202) 622–7754.

2. *Prior awardees or Allocatees:* Applicants must be aware that success in a prior round of any of the CDFI Fund's programs is not indicative of success under this NOAA. For purposes of this section, the CDFI Fund will consider an Affiliate to be any entity that meets the definition of Affiliate as defined in the NMTC allocation application materials, or any entity otherwise identified as an Affiliate by the applicant in its NMTC allocation application materials. Prior awardees of any CDFI Fund Program are eligible to apply under this NOAA, except as follows:

(a) *Prior Allocatees and Qualified Equity Investment (QEI) issuance requirements:* The following describes the QEI issuance requirements applicable to prior Allocatees.

A prior Allocatee in the second round of the NMTC Program (CY 2003–2004) is not eligible to receive a NMTC Allocation pursuant to this NOAA unless the Allocatee is able to affirmatively demonstrate that, as of 11:59 p.m. ET on July 21, 2010, it has issued and received funds in-hand (the term "funds in-hand" does not include committed funding) from its investors for 95 percent of its QEIs relating to its CY 2003–2004 NMTC Allocation.

A prior Allocatee in the third round of the NMTC Program (CY 2005) is not eligible to receive a NMTC Allocation pursuant to this NOAA unless the Allocatee is able to affirmatively demonstrate that, as of 11:59 p.m. ET on July 21, 2010, it has: (i) Issued and received funds in-hand from its investors for at least 80 percent of its

QEIs relating to its CY 2005 NMTC Allocation; or (ii) issued and received funds in-hand from its investors for at least 60 percent of its QEIs and that 100 percent of its total CY 2005 NMTC Allocation has been exchanged for funds in-hand from investors, or has been committed by its investors.

A prior Allocatee in the fourth round of the NMTC Program (CY 2006) is not eligible to receive a NMTC Allocation pursuant to this NOAA unless the Allocatee is able to affirmatively demonstrate that, as of 11:59 p.m. ET on July 21, 2010, it has: (i) Issued and received funds in-hand from its investors for at least 60 percent of its QEIs relating to its CY 2006 NMTC Allocation; or (ii) issued and received funds in-hand from its investors for at least 50 percent of its QEIs and that at least 80 percent of its total CY 2006 NMTC Allocation has been exchanged for funds in-hand from investors, or has been committed by its investors.

A prior Allocatee in the fifth round of the NMTC Program (CY 2007) is not eligible to receive a NMTC Allocation pursuant to this NOAA unless the Allocatee is able to affirmatively demonstrate that, as of 11:59 p.m. ET on July 21, 2010, it has: (i) Issued and received funds in-hand from its investors for at least 50 percent of its QEIs relating to its CY 2007 NMTC Allocation; or (ii) issued and received funds in-hand from its investors for at least 40 percent of its QEIs and that at least 80 percent of its total CY 2007 NMTC Allocation has been exchanged for funds in-hand from investors, or has been committed by its investors.

A prior Allocatee (with the exception of a Rural CDE Allocatee) in the sixth round of the NMTC Program (CY 2008) is not eligible to receive a NMTC Allocation pursuant to this NOAA unless the Allocatee is able to affirmatively demonstrate that, as of 11:59 p.m. ET on July 21, 2010, it has: (i) Issued and received funds in-hand from its investors for at least 30 percent of its QEIs relating to its CY 2008 NMTC Allocation; or (ii) issued and received funds in-hand from its investors for at least 20 percent of its QEIs and that at least 60 percent of its total CY 2008 NMTC Allocation has been exchanged for funds in-hand from investors, or has been committed by its investors. A prior Rural CDE Allocatee in the sixth round is not eligible to receive a NMTC Allocation pursuant to this NOAA unless the Allocatee can demonstrate that, as of 11:59 p.m. ET on July 21, 2010, it has: (i) Issued and received funds in-hand from its investors for at least 20 percent of its QEIs relating to its CY 2008 NMTC Allocation.

A prior Allocatee (with the exception of a Rural CDE Allocatee) in the seventh round of the NMTC Program (CY 2009) is not eligible to receive a NMTC Allocation pursuant to this NOAA unless the Allocatee is able to affirmatively demonstrate that, as of 11:59 p.m. ET on July 21, 2010, it has: (i) Issued and received funds in-hand from its investors for at least 20 percent of its QEIs relating to its CY 2009 NMTC Allocation; or (ii) issued and received funds in-hand from its investors for at least 10 percent of its QEIs and that at least 30 percent of its total CY 2009 NMTC Allocation has been exchanged for funds in-hand from investors, or has been committed by its investors. A Rural CDE is not required to meet the above QEI issuance and commitment thresholds with regard to its 2009 NMTC allocation award.

In addition to the requirements described above, an entity is not eligible to receive a NMTC Allocation pursuant to this NOAA if an Affiliate of the applicant is a prior Allocatee and has not met the requirements for the issuance and/or commitment of QEIs as set forth above for the Allocatees in the prior allocation rounds of the NMTC Program.

Notwithstanding the above, if an applicant has received multiple NMTC allocation awards between the second round (CY 2003/2004) and the seventh round (CY 2009), the applicant shall be deemed to be eligible to apply for a NMTC Allocation pursuant to this NOAA if the applicant is able to affirmatively demonstrate that, as of 11:59 p.m. ET on July 21, 2010, it has issued and received funds in-hand from its investors for at least 60 percent of its QEIs relating to its cumulative allocation amounts from these prior NMTC Program rounds. Rural CDEs that received allocations under the sixth round (CY 2008) may choose to exclude such allocations from this cumulative calculation, provided that the Allocatee has issued and received funds in-hand from its investors for at least 20 percent of its QEIs relating to its CY 2008 allocation. Rural CDEs that received allocations under the seventh round (CY2009) may choose to exclude such allocation from this cumulative calculation.

For purposes of this section of the NOAA, the CDFI Fund will only recognize as "issued" those QEIs that have been finalized in the CDFI Fund's Allocation Tracking System (ATS) by the deadlines specified above. Allocatees and their Subsidiary transferees, if any, are advised to access ATS to record each QEI that they issue to an investor in exchange for funds in-hand. For purposes of this section of the NOAA, "committed" QEIs are only those Equity Investments that are evidenced by a written, signed document in which an investor: (i) Commits to make an investment in the Allocatee in a specified amount and on specified terms; (ii) has made an initial disbursement of the investment proceeds to the Allocatee, and such initial disbursement has been recorded in ATS as a QEI; (iii) commits to disburse the remaining investment proceeds to the Allocatee based on specified amounts and payment dates; and (iv) commits to make the final disbursement to the Allocatee no later than July 21, 2012.

The applicant will be required, upon notification from the CDFI Fund, to submit adequate documentation to substantiate the required issuances of and commitments for QEIs.

Applicants should be aware that these QEI issuance requirements represent the minimum threshold requirements that must be met in order to submit an application for assistance under this NOAA. As stated in Section V.B.2 of this NOAA, the CDFI Fund reserves the right to reject an application and/or adjust award amounts as appropriate based on information obtained during the review process—including an applicant's track record of raising QEIs and/or deploying its QLICIs.

Prior Allocatees that require any action by the CDFI Fund (*e.g.,* certifying a subsidiary entity as a CDE; adding a subsidiary CDE to an Allocation Agreement; *etc.*) in order to meet the QEI issuance requirements above must submit their requests by no later than May 21, 2010 in order to guarantee that the CDFI Fund completes all necessary approvals prior to July 21, 2010. Applicants for certification may obtain a CDE certification application through the CDFI Fund's Web site at *http://www.cdfifund.gov.* Applications for CDE certification must be submitted as instructed in the application form.

(b) *Failure to meet reporting requirements:* The CDFI Fund will not consider an application submitted by an applicant if the applicant or any of its Affiliates is a prior CDFI Fund awardee or Allocatee under any CDFI Fund program and is not current on the reporting requirements set forth in a previously executed assistance, allocation or award agreement(s), as of the application deadline of this NOAA. Please note that the CDFI Fund only acknowledges the receipt of reports that are complete. As such, incomplete reports or reports that are deficient of required elements will not be recognized as having been received.

(c) *Pending resolution of noncompliance:* If an applicant is a prior awardee or Allocatee under any CDFI Fund program and if: (i) It has submitted complete and timely reports to the CDFI Fund that demonstrate noncompliance with a previous assistance, award or Allocation Agreement; and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in default of its previous assistance, award or Allocation Agreement, the CDFI Fund will consider the applicant's application under this NOAA pending full resolution of the noncompliance, in the sole determination of the CDFI Fund. Further, if an Affiliate of the applicant is a prior CDFI Fund awardee or Allocatee and if such entity: (i) Has submitted complete and timely reports to the CDFI Fund that demonstrate noncompliance with a previous assistance, award or Allocation Agreement; and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in default of its previous assistance, award or Allocation Agreement, the CDFI Fund will consider the applicant's application under this NOAA pending full resolution of the noncompliance, in the sole determination of the CDFI Fund.

(d) *Default status:* The CDFI Fund will not consider an application submitted by an applicant that is a prior CDFI Fund awardee or Allocatee under any CDFI Fund program if, as of the application deadline of this NOAA, the CDFI Fund has made a final determination that such applicant is in default of a previously executed assistance, allocation or award agreement(s) and the CDFI Fund has provided written notification of such determination to such applicant.

Further, an entity is not eligible to apply for an allocation pursuant to this NOAA if, as of the application deadline of this NOAA, the CDFI Fund has made a final determination that an Affiliate of the Applicant is a prior CDFI Fund awardee or Allocatee under any CDFI Fund program and has been determined by the CDFI Fund to be in default of a previously executed assistance, allocation or award agreement(s) and the CDFI Fund has provided written notification of such determination. Such entities will be ineligible to apply for an award pursuant to this NOAA so long as the Applicant's, or its Affiliate's, prior award or allocation remains in default status or such other time period as specified by the CDFI Fund in writing.

(e) *Termination in default:* The CDFI Fund will not consider an application submitted by an applicant that is a prior CDFI Fund awardee or Allocatee under any CDFI Fund program if: (i) Within the 12-month period prior to the application deadline of this NOAA, the CDFI Fund has made a final determination that such applicant's prior award or allocation terminated in default of a previously executed assistance, allocation or award agreement(s); (ii) the CDFI Fund has provided written notification of such determination to such applicant; and (iii) the final reporting period end date for the applicable terminated assistance, allocation or award agreement(s) falls within the 12-month period prior to the application deadline of this NOFA.

Further, an entity is not eligible to apply for an allocation pursuant to this NOAA if: (i) Within the 12-month period prior to the application deadline of this NOAA, the CDFI Fund has made a final determination that an Affiliate of the Applicant is a prior CDFI Fund awardee or Allocatee under any CDFI Fund program whose award or allocation terminated in default of a previously executed assistance, allocation or award agreement(s); (ii) the CDFI Fund has provided written notification of such determination to the defaulting entity; and (iii) the final reporting period end date for the applicable terminated assistance, allocation or award agreement(s) falls within the 12-month period prior to the application deadline of this NOAA.

(f) *Undisbursed award funds:* The CDFI Fund will not consider an application submitted by an applicant that is a prior CDFI Fund Awardee under any CDFI Fund program if the Applicant has a balance of undisbursed award funds (defined below) under said prior award(s), as of the applicable application deadline of this NOAA. Furthermore, an entity is not eligible to apply for an award pursuant to this NOAA if an Affiliate of the Applicant is a prior CDFI Fund Awardee under any CDFI Fund program, and has a balance of undisbursed award funds under said prior award(s), as of the applicable application deadline of this NOAA. In a case where an Affiliate of the Applicant is a prior CDFI Fund Awardee under any CDFI Fund program and has a balance of undisbursed award funds under said prior award(s) as of the applicable application deadline of this NOAA, the CDFI Fund will include the combined awards of the Applicant and such Affiliated entities when calculating the amount of undisbursed award funds.

For purposes of the calculation of undisbursed award funds for the BEA Program, only awards made to the Applicant (and any Affiliates) three to five calendar years prior to the end of the calendar year of the application deadline of this NOAA are included ("includable BEA awards"). Thus, for purposes of this NOAA, undisbursed BEA Program award funds are the amount of FYs 2005, 2006 and 2007 awards that remain undisbursed as of the application deadline of this NOAA.

For purposes of the calculation of undisbursed award funds for the CDFI Program and the Native Initiatives Funding Programs, only awards made to the Applicant (and any entity that Controls the Applicant, is Controlled by the Applicant or shares common management officials with the Applicant, as determined by the CDFI Fund) two to five calendar years prior to the end of the calendar year of the application deadline of this NOAA are included ("includable CDFI/NI awards"). Thus, for purposes of this NOAA, undisbursed CDFI Program and Native Initiative (NI) awards are the amount of FYs 2005, 2006, 2007 and 2008 awards that remain undisbursed as of the application deadline of this NOAA.

To calculate total includable BEA/CDFI/NI awards: amounts that are undisbursed as of the application deadline of this NOAA cannot exceed five percent (5%) of the total includable awards. Please refer to an example of this calculation in the 2010 Allocation Application Q&A document, available on the CDFI Fund's Web site.

The "undisbursed award funds" calculation does not include: (i) Tax credit allocation authority made available through the New Market Tax Credit (NMTC) Program; (ii) any award funds for which the CDFI Fund received a full and complete disbursement request from the Awardee by the applicable application deadline of this NOAA; (iii) any award funds for an award that has been terminated, in writing, by the CDFI Fund or deobligated by the CDFI Fund; or (iv) any award funds for an award that does not have a fully executed assistance or award agreement. The CDFI Fund strongly encourages Applicants requesting disbursements of "undisbursed funds" from prior awards to provide the CDFI Fund with a complete disbursement request at least 30 business days prior to the application deadline of this NOAA.

(g) *Contact the CDFI Fund:* Accordingly, Applicants that are prior awardees and/or Allocatees under any other CDFI Fund program are advised to: (i) Comply with the requirements specified in assistance, allocation and/or award agreement(s), and (ii) contact the CDFI Fund to ensure that all necessary actions are underway for the disbursement of any outstanding

balance of a prior award(s). All outstanding reports and compliance questions should be directed to the Compliance Manager by e-mail at *cme@cdfi.treas.gov,* by telephone at (202) 622–8453, or by facsimile at (202) 622–8728. All disbursement questions should be directed to the CDFI Fund's Senior Resource Manager by telephone at (202) 622–7165 or by facsimile at (202) 622–8728. Requests submitted less than thirty calendar days prior to the application deadline may not receive a response before the application deadline.

Both the Compliance Manager and the Senior Resource Manager may be reached by mail at CDFI Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005.

The CDFI Fund will respond to Applicants' reporting, compliance or disbursement questions between the hours of 9 a.m. and 5 p.m. ET, starting the date of publication of this NOAA through May 31, 2010 (two days before the application deadline). The CDFI Fund will not respond to Applicants' reporting, compliance or disbursement phone calls or e-mail inquiries that are received after 5 p.m. ET on May 31, 2010 until after the funding application deadline of June 2, 2010.

3. *Entities that propose to transfer NMTCs to Subsidiaries:* Both for-profit and non-profit CDEs may apply to the CDFI Fund for allocations of NMTCs, but only a for-profit CDE is permitted to provide NMTCs to its investors. A non-profit applicant wishing to apply for a NMTC Allocation must demonstrate, prior to entering into an Allocation Agreement with the CDFI Fund, that: (i) It controls one or more Subsidiaries that are for-profit entities; and (ii) it intends to transfer the full amount of any NMTC Allocation it receives to said Subsidiary.

An applicant wishing to transfer all or a portion of its NMTC Allocation to a Subsidiary is not required to create the Subsidiary prior to submitting a NMTC allocation application to the CDFI Fund. However, the Subsidiary entities must be certified as CDEs by the CDFI Fund, and enjoined as parties to the Allocation Agreement at closing or by amendment to the Allocation Agreement after closing. Before the NMTC Allocation transfer may occur it must be pre-approved by the CDFI Fund, in its sole discretion.

The CDFI Fund strongly encourages a non-profit applicant to submit a CDE certification application to the CDFI Fund on behalf of the Subsidiary within 30 days after the non-profit applicant receives the draft Allocation Agreement from the CDFI Fund; as such Subsidiary must be certified as a CDE prior to entering into an Allocation Agreement with the CDFI Fund. A non-profit applicant that fails to certify one or more for-profit subsidiaries within 30 days of receiving the draft Allocation Agreement from the CDFI Fund is subject to the CDFI Fund rescinding the award.

4. *Entities that submit applications together with Affiliates; applications from common enterprises:* (a) As part of the allocation application review process, the CDFI Fund considers whether applicants are Affiliates, as such term is defined in the allocation application. If an applicant and its Affiliates wish to submit allocation applications, they must do so collectively, in one application; an applicant and its Affiliates may not submit separate allocation applications. If Affiliated entities submit multiple applications, the CDFI Fund reserves the right either to reject all such applications received or to select a single application as the only application considered for an allocation. In the case of governmental entities, the CDFI Fund may accept applications submitted by Affiliated entities, but only to the extent the CDFI Fund determines that the business strategies and/or activities described in such applications, submitted by separate entities, are distinctly dissimilar and are operated and/or managed by distinctly dissimilar boards and staff, including identified consultants. In such cases, the CDFI Fund reserves the right to limit award amounts to such entities to ensure that the entities do not collectively receive more than the $150 million cap for any single entity.

For purposes of this NOAA, in addition to assessing whether applicants meet the definition of the term "Affiliate" found in the allocation application, the CDFI Fund will consider: (i) Whether the activities described in applications submitted by separate entities are, or will be, operated and/or managed as a common enterprise that, in fact or effect, may be viewed as a single entity; (ii) whether the applications submitted by separate entities contain significant narrative, textual or other similarities, and (iii) whether the business strategies and/or activities described in applications submitted by separate entities are so closely related, in fact or effect, they may be viewed as substantially identical applications. In such cases, the CDFI Fund reserves the right either to reject all applications received from all such entities; to select a single application as the only one that will be considered for an allocation; and, in the event that an Application is selected to receive an allocation award, to deem certain activities ineligible. These requirements shall apply to all applicants, including those that are Affiliated with governmental entities.

(b) Furthermore, an applicant that receives an allocation in this allocation round (or its Subsidiary transferee) may not become an Affiliate of or member of a common enterprise (as defined above) with another applicant that receives an allocation in this allocation round (or its Subsidiary transferee) at any time after the submission of an allocation application under this NOAA. This prohibition, however, generally does not apply to entities that are commonly Controlled solely because of common ownership by QEI investors. This requirement will also be a term and condition of the Allocation Agreement (see Section VI.B. of this NOAA and additional application guidance materials on the CDFI Fund's Web site at *http://www.cdfifund.gov* for more details).

5. *Entities created as a series of funds:* An applicant whose business structure consists of an entity with a series of funds may apply for CDE certification as a single entity, or as multiple entities. If such an applicant represents that it is properly classified for Federal tax purposes as a single partnership or corporation, it may apply for CDE certification as a single entity. If an applicant represents that it is properly classified for Federal tax purposes as multiple partnerships or corporations, then it may submit a single CDE certification application on behalf of the entire series of funds, and each fund must be separately certified as a CDE. Applicants should note, however, that receipt of CDE certification as a single entity or as multiple entities is not a determination that an applicant and its related funds are properly classified as a single entity or as multiple entities for Federal tax purposes. Regardless of whether the series of funds is classified as a single partnership or corporation or as multiple partnerships or corporations, an applicant may not transfer any NMTC Allocations it receives to one or more of its funds unless the transfer is pre-approved by the CDFI Fund, in its sole discretion, which will be a condition of the Allocation Agreement.

6. *Entities that are BEA Program awardees:* An insured depository institution investor (and its Affiliates and Subsidiaries) may not receive a NMTC Allocation in addition to a BEA Program award for the same investment in a CDE. Likewise, an insured depository institution investor (and its Affiliates and Subsidiaries) may not

receive a BEA Program award in addition to a NMTC Allocation for the same investment in a CDE.

IV. Application and Submission Information

A. *Address to request application package:* Applicants must submit applications electronically under this NOAA, through the CDFI Fund Web site. Following the publication of this NOAA, the CDFI Fund will make the electronic allocation application available on its Web site at *http://www.cdfifund.gov*. Applications sent by mail, facsimile or other form will not be accepted. Please note the CDFI Fund will only accept the application and attachments (*i.e.* signature page, investor letters and organizational charts) in electronic form.

B. *Application content requirements:* Detailed application content requirements are found in the application related to this NOAA. Applicants must submit all materials described in and required by the application by the applicable deadlines. Applicants will not be afforded an opportunity to provide any missing materials or documentation. Electronic applications must be submitted solely by using the format made available at the CDFI Fund's Web site. Additional information, including instructions relating to the submission of supporting information (*i.e.,* signature page, investor letters and organizational charts), is set forth in further detail in the electronic application. An application must include a valid and current Employer Identification Number (EIN) issued by the Internal Revenue Service and assigned to the applicant and, if applicable, its Controlling Entity. Electronic applications without a valid EIN are incomplete and cannot be transmitted to the CDFI Fund. For more information on obtaining an EIN, please contact the Internal Revenue Service at (800) 829–4933 or *www.irs.gov.*

An applicant may not submit more than one application in response to this NOAA. In addition, as stated in Section III.A.4 of this NOAA, an applicant and its Affiliates must collectively submit only one allocation application; an applicant and its Affiliates may not submit separate allocation applications except as outlined above. Once an application is submitted, an applicant will not be allowed to change any element of its application.

C. *Form of application submission:* Applicants may only submit applications under this NOAA electronically. Applications sent by facsimile or by e-mail will not be accepted. Submission of an electronic application will facilitate the processing and review of applications and the selection of Allocatees; further, it will assist the CDFI Fund in the implementation of electronic reporting requirements.

1. *Electronic applications:* Electronic applications must be submitted solely by using the CDFI Fund's Web site and must be sent in accordance with the submission instructions provided in the electronic application form. Applicants will need access to Internet Explorer 5.5 or higher, Windows 98 or higher (or other system compatible with the above Explorer software) and optimally at least a 56Kbps Internet connection in order to meet the electronic application submission requirements. The CDFI Fund's electronic application system will only permit the submission of applications in which all required questions and tables are fully completed. Additional information, including instructions relating to the submission of supporting information (*i.e.,* signature page, investor letters and organizational charts) is set forth in further detail in the electronic application.

D. *Application submission dates and times:*

1. *Application deadlines:*

(a) *Electronic applications:* must be received by 5 p.m. ET on June 2, 2010. Electronic applications cannot be transmitted or received after 5 p.m. ET on June 2, 2010. In addition, applicants that submit electronic applications must separately submit supporting information (*i.e.,* signature page, investor letters and organizational charts) via their myCDFIFund account. The signature page, investor letters and organizational charts must be submitted on or before June 4, 2010. See application instructions, provided in the electronic application, for further detail. Applications and other required documents received after this date and time will be rejected. If the signature page, investor letters and organizational charts are not received by the deadline specified above, the application will be rejected. Please note that the document submission deadlines in this NOAA and/or the allocation application are strictly enforced.

(b) *Postmark:* For purposes of this NOAA, the term "postmark" is defined by 26 CFR 301.7502–1. In general, the CDFI Fund will require that the postmarked document bear a postmark date that is on or before the applicable deadline. The document must be in an envelope or other appropriate wrapper, properly addressed as set forth in this NOAA and delivered by the United States Postal Service or any other private delivery service designated by the Secretary of the Treasury. For more information on designated delivery services, please see IRS Notice 2002–62, 2002–2 C.B. 574.

E. *Intergovernmental Review:* Not applicable.

F. *Funding Restrictions:* For allowable uses of investment proceeds related to a NMTC Allocation, please see 26 U.S.C. 45D and the final regulations issued by the Internal Revenue Service (26 CFR 1.45D–1, published December 28, 2004) and related guidance. Please see Section I, above, for the Programmatic Changes of this NOAA.

V. Application Review Information

There are two parts to the substantive review process for each allocation application: Phase 1 and Phase 2. In Phase 1, the CDFI Fund will evaluate each application, assigning points and numeric scores according to the criteria described below. In Phase 2, the CDFI Fund will rank applicants in accordance with the procedures set forth below.

A. *Criteria:*

1. *Business Strategy* (25-point maximum): (a) When assessing an applicant's business strategy, reviewers will consider, among other things: The applicant's products, services and investment criteria; the prior performance of the applicant or its Controlling Entity, particularly as it relates to making similar kinds of investments as those it proposes to make with the proceeds of QEIs; the applicant's prior performance in providing capital or technical assistance to disadvantaged businesses or communities; the projected level of the applicant's pipeline of potential investments; the extent to which the applicant intends to make Qualified Low-Income Community Investments (QLICIs) in one or more businesses in which persons unrelated to the entity hold a majority equity interest; and the extent to which applicants that otherwise have notable relationships with the QALICBs financed will create benefits (beyond those created in the normal course of a NMTC transaction) to *Low-Income* Communities.

Under the Business Strategy criterion, an applicant will generally score well to the extent that it will deploy debt or investment capital in products or services which: (i) Are designed to meet the needs of underserved markets; (ii) are flexible or non-traditional in form and on better terms than available in the marketplace; and (iii) focus on customers or partners that typically lack access to conventional sources of capital. An applicant will also score well to the extent that, among other

things, it: (i) Has a track record of successfully providing products and services similar to those it intends to use with the proceeds of QEIs; (ii) has identified, or has a process for identifying, potential transactions; (iii) demonstrates a likelihood of issuing QEIs and making the related QLICIs in a time period that is significantly shorter than the 5-year period permitted under IRC § 45D(b)(1); and (iv) in the case of an applicant proposing to purchase loans from CDEs, the applicant will require the CDE selling such loans to re-invest the proceeds of the loan sale to provide additional products and services to Low-Income Communities.

(b) *Priority Points:* In addition, as provided by IRC § 45D(f)(2), the CDFI Fund will ascribe additional points to entities that meet one or both of the statutory priorities. First, the CDFI Fund will give up to five (5) additional points to any applicant that has a record of having successfully provided capital or technical assistance to disadvantaged businesses or communities. Second, the CDFI Fund will give five (5) additional points to any applicant that intends to satisfy the requirement of IRC § 45D(b)(1)(B) by making QLICIs in one or more businesses in which persons unrelated (within the meaning of IRC § 267(b) or IRC § 707(b)(1)) to an applicant (or the applicant's subsidiary CDEs) hold the majority equity interest. Applicants may earn points for one or both statutory priorities. Thus, applicants that meet the requirements of both priority categories can receive up to a total of ten (10) additional points. A record of having successfully provided capital or technical assistance to disadvantaged businesses or communities may be demonstrated either by the past actions of an applicant itself or by its Controlling Entity (*e.g.,* where a new CDE is established by a nonprofit corporation with a history of providing assistance to disadvantaged communities). An applicant that receives additional points for intending to make investments in unrelated businesses and is awarded a NMTC Allocation must meet the requirements of IRC § 45D(b)(1)(B) by investing substantially all of the proceeds from its QEIs in unrelated businesses. The CDFI Fund will factor in an applicant's priority points when ranking applicants during Phase 2 of the review process, as described below.

2. *Community Impact* (25-point maximum): In assessing the potential benefits to Low-Income Communities that may result from the applicant's proposed investments, reviewers will consider, among other things, the degree to which the applicant is likely to achieve significant and measurable community development outcomes in its Low-Income Communities, and whether the applicant is working in particularly economically distressed markets and/or in concert with Federal, State or local government or community economic development initiatives (*e.g.,* Empowerment Zones, Enterprise Communities, and Renewal Communities). An applicant will generally score well under this section to the extent that: (a) It articulates how its strategy is likely to produce significant and measurable community development outcomes that would not be achieved without NMTCs; and (b) it is working in particularly economically distressed or otherwise underserved communities and/or in concert with other Federal, State or local government or community economic development initiatives.

3. *Management Capacity* (25-point maximum). In assessing an applicant's management capacity, reviewers will consider, among other things, the qualifications of the applicant's principals, its board members, its management team, and other essential staff or contractors, with specific focus on: experience in deploying capital or technical assistance, including activities similar to those described in the applicant's business strategy; asset management and risk management experience; experience with fulfilling compliance requirements of other governmental programs, including other tax programs; and the applicant's (or its Controlling Entity's) financial health. Reviewers will also consider the extent to which an applicant has protocols in place to ensure ongoing compliance with NMTC Program requirements and the level of involvement of community representatives and other stakeholders in the design, implementation or monitoring of an applicant's business plan and strategy. In the case of an applicant or its Affiliate that has received a NMTC Allocation from the CDFI Fund under a prior allocation round, reviewers will consider the activities that have occurred to date with respect to the prior allocation(s).

An applicant will generally score well under this section to the extent that its management team or other essential personnel have experience in: (a) Deploying capital or technical assistance in Low-Income Communities, particularly those likely to be served by the applicant with the proceeds of QEIs; (b) asset and risk management; and (c) fulfilling government compliance requirements, particularly tax credit program compliance. An applicant will also score well to the extent it demonstrates strong financial health and a high likelihood of remaining a going-concern; it has policies and systems in place to ensure ongoing compliance with NMTC Program requirements, and Low-Income Community stakeholders play an active role in designing or implementing its business plan.

4. *Capitalization Strategy* (25-point maximum): When assessing an applicant's capitalization strategy, reviewers will consider, among other things: The key personnel of the applicant (or Controlling Entity) and their track record of raising capital, particularly from for-profit investors; the extent to which the applicant has secured investments, commitments to invest in NMTC, or indications of investor interest commensurate with its requested amount of tax credit allocations; the applicant's strategy for identifying additional investors, if necessary, including the applicant's (or its Controlling Entity's) prior performance with raising equity from investors, particularly for-profit investors; the distribution of the economic benefits of the tax credit; the extent to which the applicant intends to invest the proceeds from the aggregate amount of its QEIs at a level that exceeds the requirements of IRC § 45D(b)(1)(B) and the IRS regulations; the likelihood the applicant will raise sufficient capital to finance its cost of operations while charging reasonable fees; and the applicant's timeline for utilizing an NMTC Allocation.

An applicant will generally score well under this section to the extent that: (a) It has secured investor commitments, or has a reasonable strategy for obtaining such commitments; (b) its request for allocations is commensurate with both the level of QEIs it is likely to raise and its expected investment strategy to deploy funds raised with NMTCs; (c) it generally demonstrates that the economic benefits of the tax credit will be passed through to end users; (d) it is likely to secure capital to finance its cost of operations and charge fees appropriate to the operational needs of the applicant; and (e) it intends to invest the proceeds from the aggregate amount of its QEIs at a level that exceeds the requirements of IRC § 45D(b)(1)(B) and the IRS regulations. In the case of an applicant proposing to raise investor funds from organizations that also will identify or originate transactions for the applicant or from affiliated entities, said applicant will score well to the extent that it will offer products with more favorable rates or terms than those currently offered by its investor(s) or Affiliated entities and/or will target its

activities to areas of greater economic distress than those currently targeted by the investor or Affiliated entities.

B. *Review and selection process:* All allocation applications will be reviewed for eligibility and completeness. The CDFI Fund may consult with the IRS on the eligibility requirements under IRC § 45D. To be complete, the application must contain, at a minimum, all information described as required in the application form. An incomplete application will be rejected. Once the application has been determined to be eligible and complete, the CDFI Fund will conduct the substantive review of each application in two parts (Phase 1 and Phase 2) in accordance with the criteria and procedures generally described in this NOAA and the allocation application.

1. *Phase 1:* Reviewers will evaluate and score each application in the first part of the review process. An applicant must exceed a minimum overall aggregate base score threshold *and* exceed a minimum aggregate section score threshold in each of the four application sections (Business Strategy, Community Impact, Management Capacity, and Capitalization Strategy) in order to advance from the first part of the substantive review process. If, in the case of a particular application, a reviewer's total base score or section score(s) (in one or more of the four application sections) varies significantly from other reviewers' total base scores or section scores for such application, the CDFI Fund may, in its sole discretion, obtain the comments and recommendations of an additional reviewer to determine whether the anomalous score should be replaced with the score of the additional reviewer.

2. *Phase 2:* Once the CDFI Fund has determined which applicants have met the required minimum overall aggregate base score and aggregate section score thresholds, the CDFI Fund will rank applicants on the basis of their combined scores in the Business Strategy and Community Impact sections of the application and will make adjustments to each applicant's priority points so that these points maintain the same relative weight in the ranking of applicant scores in Phase 2 as in Phase 1. The CDFI Fund will award allocations in the order of this "Final Rank Score," subject to applicants' meeting all other eligibility requirements; provided, however, that the CDFI Fund, in its sole discretion, reserves the right to reject an application and/or adjust award amounts as appropriate based on information obtained during the review process. Most notably, in the cases of applicants (or their Affiliates) that are prior year allocatees, the CDFI Fund will review the activities of the prior year allocatee to determine whether the entity has: (a) effectively utilized its prior-year allocations; and (b) substantiated a need for additional allocation authority.

3. *Outstanding Reports:* In the case of an applicant, or Affiliates, that has previously received an award or allocation from the CDFI Fund through any CDFI Fund program, the CDFI Fund will deduct points for the applicant's (or its Affiliate's) failure to meet the reporting deadlines set forth in any assistance, award or Allocation Agreement(s) with the CDFI Fund during the entity's two complete fiscal years prior to the application deadline of this NOAA (generally FY 2008 and 2009).

C. *Allocations serving Non-Metropolitan counties:* As provided for under Section 102(b) of the Tax Relief and Health Care Act of 2006 (Pub. L. 109–432), the CDFI Fund shall ensure that non-metropolitan counties receive a proportional allocation of Qualified Equity Investments (QEIs) under the NMTC Program. To this end, the CDFI Fund will ensure that the proportion of allocatees that are Rural CDEs is, at a minimum, equal to the proportion of applicants in the Phase 2 review pool that are Rural CDEs; and ensure that at least 20 percent of the QLICIs to be made using QEI proceeds are invested in Non-Metropolitan counties. A Rural CDE is one that has over the past five years dedicated at least 50 percent of its activities to Non-Metropolitan counties and has committed that at least 50 percent of its NMTC activities will be conducted in such areas. Non-Metropolitan counties are counties not contained within a Metropolitan Statistical Area, as such term is defined in OMB Bulletin No. 99–04 (Revised Statistical Definitions of Metropolitan Areas (MAs) and Guidance on Uses of MA Definitions) and applied using 2000 census data.

Applicants that meet the minimum scoring thresholds will be advanced to Phase 2 review and will be provided with "preliminary" awards, in descending order of Final Rank Score, until the $5.0 billion in allocation authority is expended. Once these "preliminary" award amounts are determined, the CDFI Fund will then analyze the allocatee pool to determine whether the two Non-Metropolitan proportionality objectives have been met.

The CDFI Fund will first examine the "preliminary" awards and allocatees to determine whether the percentage of allocatees that are Rural CDEs is, at a minimum, equal to the percentage of applicants in the Phase 2 review pool that are Rural CDEs. If this objective is not achieved, the CDFI Fund will provide awards to additional Rural CDEs from the Phase 2 pool, in descending order of their Final Rank Score, until the appropriate percentage balance is achieved. In order to accommodate the additional allocatees within the $5.0 billion allocation limitations, a formula reduction will be applied uniformly to the allocation amount for all allocatees in the pool.

The CDFI Fund will then ensure that the pool of allocatees will, in the aggregate, invest at least 20 percent of their QLICIs (as measured by dollar amount) in Non-Metropolitan counties. The CDFI Fund will first apply the "minimum" percentage of QLICIs that allocatees indicated in their applications would be targeted to Non-Metropolitan areas to the total allocation award amount of each allocatee (less whatever percentage the allocatee indicated would be retained for non-QLICI activities), and total these figures for all allocatees. If this aggregate total is greater than or equal to 20 percent of the QLICIs to be made by the allocatees, then the pool is considered balanced and the CDFI Fund will proceed with the allocation process. However, if the aggregate total is less than 20 percent of the QLICIs to be made by the allocatees, the CDFI Fund will consider requiring any or all of the Allocatees to direct up to the "maximum" percentage of QLICIs that they indicated would be targeted to Non-Metropolitan counties; taking into consideration their track record and ability to deploy dollars in Non-Metropolitan counties. If the CDFI Fund cannot meet the benchmark of 20% of QLICIs in Non-Metropolitan counties, the CDFI Fund may add additional Rural CDEs (in descending order of final rank score) to the awardee pool. In order to accommodate the additional allocatees within the $5.0 billion allocation limitations, a formula reduction will be applied uniformly to the allocation amount for all allocatees in the pool.

D. *Questions:* All outstanding reports or compliance questions should be directed to the Certifications and Compliance Manager by e-mail at *cme@cdfi.treas.gov;* by telephone at (202) 622–8453; by facsimile at (202) 622–2445; or by mail to CDFI Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005. The CDFI Fund will respond to reporting or compliance questions between the hours of 9 a.m. and 5 p.m. ET, starting the date of the

publication of this NOAA through May 31, 2010. The CDFI Fund will not respond to reporting or compliance phone calls or e-mail inquiries that are received after 5 p.m. ET on May 31, 2010 until after the funding application deadline of June 2, 2010.

E. *Right of rejection:* The CDFI Fund reserves the right to reject any NMTC allocation application in the case of a prior CDFI Fund awardee, if such applicant has failed to comply with the terms, conditions, and other requirements of the prior or existing assistance or award agreement(s) with the CDFI Fund. The CDFI Fund reserves the right to reject any NMTC allocation application in the case of a prior CDFI Fund Allocatee, if such applicant has failed to comply with the terms, conditions, and other requirements of its prior or existing Allocation Agreement(s) with the CDFI Fund. The CDFI Fund reserves the right to reject any NMTC allocation application in the case of any applicant, if an Affiliate of the applicant has failed to meet the terms, conditions and other requirements of any prior or existing assistance agreement, award agreement or Allocation Agreement with the CDFI Fund.

The CDFI Fund reserves the right to reject any NMTC allocation application in the case of a prior CDFI Fund Allocatee, if such applicant has failed to use its prior NMTC allocation(s) in a manner that is generally consistent with the business strategy (including, but not limited to, the proposed product offerings and markets served) set forth in the allocation application(s) related to such prior allocation(s). The CDFI Fund also reserves the right to reject any NMTC allocation application in the case of an Affiliate of the applicant that is a prior CDFI Fund Allocatee and has failed to use its prior NMTC allocation(s) in a manner that is generally consistent with the business strategy set forth in the allocation application(s) related to such prior allocation(s).

The CDFI Fund reserves the right to reject a NMTC allocation application if information (including administrative errors) comes to the attention of the CDFI Fund that adversely affects an applicant's eligibility for an award, adversely affects the CDFI Fund's evaluation or scoring of an application, or indicates fraud or mismanagement on the part of an applicant. If the CDFI Fund determines that any portion of the application is incorrect in any material respect, the CDFI Fund reserves the right, in its sole discretion, to reject the application.

As a part of the substantive review process, the CDFI Fund may permit reviewer(s) to make telephone calls to applicants for the sole purpose of obtaining, clarifying or confirming application information. In no event shall such contact be construed to permit an applicant to change any element of its application. Reviewers will not contact applicants without the prior approval of the CDFI Fund. At this point in the process, an applicant may be required to submit additional information about its application in order to assist the CDFI Fund with its final evaluation process. Such requests must be responded to within the time parameters set by the CDFI Fund. The selecting official(s) will make a final allocation determination based on an applicant's file, including, without limitation, eligibility under IRC§ 45D, the reviewers' scores and the amount of allocation authority available. In the case of applicants (or Affiliates of applicants) that are regulated by the Federal government or a State agency (or comparable entity), the CDFI Fund's selecting official(s) reserve(s) the right to consult with and take into consideration the views of the appropriate Federal or State banking and other regulatory agencies. In the case of applicants (or Affiliates of applicants) that are also Small Business Investment Companies, Specialized Small Business Investment Companies or New Markets Venture Capital Companies, the CDFI Fund reserves the right to consult with and take into consideration the views of the Small Business Administration.

The CDFI Fund reserves the right to conduct additional due diligence, as determined reasonable and appropriate by the CDFI Fund, in its sole discretion, related to the applicant and its officers, directors, owners, partners and key employees.

Each applicant will be informed of the CDFI Fund's award decision through an electronic notification whether selected for an allocation (see Section VI.A. of this NOAA) or not selected for an allocation, which may be for reasons of application incompleteness, ineligibility or substantive issues. All applicants that are not selected for an allocation based on substantive issues will likely be given the opportunity to obtain feedback on their applications. This feedback will be provided in a format and within a timeframe to be determined by the CDFI Fund, based on available resources.

The CDFI Fund further reserves the right to change its eligibility and evaluation criteria and procedures, if the CDFI Fund deems it appropriate. If said changes materially affect the CDFI Fund's award decisions, the CDFI Fund will provide information regarding the changes through the CDFI Fund's Web site.

There is no right to appeal the CDFI Fund's allocation decisions. The CDFI Fund's allocation decisions are final.

VI. Award Administration Information

1. *Failure to meet reporting requirements:* If an Allocatee, or an Affiliate of an Allocatee, is a prior CDFI Fund awardee or Allocatee under any CDFI Fund program and is not current on the reporting requirements set forth in the previously executed assistance, allocation or award agreement(s), as of the date of the award notification or thereafter, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Allocation Agreement and/or to impose limitations on an Allocatee's ability to issue QEIs to investors until said prior awardee or Allocatee is current on the reporting requirements in the previously executed assistance, allocation or award agreement(s). Please note that the CDFI Fund only acknowledges the receipt of reports that are complete. As such, incomplete reports or reports that are deficient of required elements will not be recognized as having been received. If said prior awardee or Allocatee is unable to meet this requirement within the timeframe set by the CDFI Fund, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the allocation made under this NOAA.

2. *Pending resolution of noncompliance:* If an Allocatee is a prior awardee or Allocatee under any CDFI Fund program and if: (i) It has submitted complete and timely reports to the CDFI Fund that demonstrate noncompliance with a previous assistance, award or Allocation Agreement; and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in default of its previous assistance, award or Allocation Agreement, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Allocation Agreement and/or to impose limitations on the Allocatee's ability to issue Qualified Equity Investments to investors, pending full resolution, in the sole determination of the CDFI Fund, of the noncompliance. Further, if an Affiliate of an Allocatee is a prior CDFI Fund awardee or Allocatee and if such entity: (i) Has submitted complete and timely reports to the CDFI Fund that demonstrate noncompliance with a previous assistance, award or Allocation Agreement; and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in default of its previous assistance, award or Allocation

Agreement, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Allocation Agreement and/or to impose limitations on the Allocatee's ability to issue QEIs to investors, pending full resolution, in the sole determination of the CDFI Fund, of the noncompliance. If the prior awardee or Allocatee in question is unable to satisfactorily resolve the issues of noncompliance, in the sole determination of the CDFI Fund, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the award notification made under this NOAA.

3. *Default status:* If, at any time prior to entering into an Allocation Agreement through this NOAA, the CDFI Fund has made a final determination that an Allocatee that is a prior CDFI Fund awardee or Allocatee under any CDFI Fund program is in default of a previously executed assistance, allocation or award agreement(s) and has provided written notification of such determination to the Allocatee, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Allocation Agreement and/or to impose limitations on the Allocatee's ability to issue QEIs to investors, until said prior awardee or Allocatee has submitted a complete and timely report demonstrating full compliance with said agreement within a timeframe set by the CDFI Fund. Further, if at any time prior to entering into an Allocation Agreement through this NOAA, the CDFI Fund has made a final determination that an Affiliate of the Allocatee is a prior CDFI Fund awardee or Allocatee under any CDFI Fund program, and is in default of a previously executed assistance, allocation or award agreement(s) and has provided written notification of such determination to the defaulting entity, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Allocation Agreement and/or to impose limitations on the Allocatee's ability to issue QEIs to investors, until said prior awardee or Allocatee has submitted a complete and timely report demonstrating full compliance with said agreement within a timeframe set by the CDFI Fund. If said prior awardee or Allocatee is unable to meet this requirement, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Notice of Allocation and the allocation made under this NOAA.

4. *Termination in default:* If (i) within the 12-month period prior to entering into an Allocation Agreement through this NOAA, the CDFI Fund has made a final determination that an Allocatee that is a prior CDFI Fund awardee or Allocatee under any CDFI Fund program whose award or allocation was terminated in default of such prior agreement; (ii) the CDFI Fund has provided written notification of such determination to such organization; and (iii) the final reporting period end date for the applicable terminated agreement falls in such organization's 2008 or 2009 fiscal year, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Allocation Agreement and/or to impose limitations on the Allocatee's ability to issue QEIs to investors. Furthermore, if (i) within the 12-month period prior to entering into an Allocation Agreement through this NOAA, the CDFI Fund has made a final determination that an Affiliate of the Allocatee is a prior CDFI Fund awardee or Allocatee under any CDFI Fund program whose award or allocation was terminated in default of such prior agreement; (ii) the CDFI Fund has provided written notification of such determination to the defaulting entity; and (iii) the final reporting period end date for the applicable terminated agreement falls in such defaulting entity's 2008 or 2009 fiscal year, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Allocation Agreement and/or to impose limitations on the Allocatee's ability to issue QEIs to investors.

5. *Allocation Agreement:* Each applicant that is selected to receive a NMTC Allocation (including the applicant's Subsidiary transferees) must enter into an Allocation Agreement with the CDFI Fund. The Allocation Agreement will set forth certain required terms and conditions of the NMTC Allocation which may include, but are not limited to, the following: (i) The amount of the awarded NMTC Allocation; (ii) the approved uses of the awarded NMTC Allocation (*e.g.,* loans to or equity investments in Qualified Active Low-Income Businesses or loans to or equity investments in other CDEs); (iii) the approved service area(s) in which the proceeds of QEIs may be used, including the dollar amount of QLICIs that must be invested in Non-Metropolitan counties; (iv) the time period by which the applicant may obtain QEIs from investors; (v) reporting requirements for all applicants receiving NMTC Allocations; and (vi) a requirement to maintain certification as a CDE throughout the term of the Allocation Agreement. If an applicant has represented in its NMTC allocation application that it intends to invest substantially all of the proceeds from its investors in businesses in which persons unrelated to the applicant hold a majority equity interest, the Allocation Agreement will contain a covenant whereby said applicant agrees that it will invest substantially all of said proceeds in businesses in which persons unrelated to the applicant hold a majority equity interest.

In addition to entering into an Allocation Agreement, each applicant selected to receive a NMTC Allocation must furnish to the CDFI Fund an opinion from its legal counsel, the content of which will be further specified in the Allocation Agreement, to include, among other matters, an opinion that an applicant (and its Subsidiary transferees, if any): (i) Is duly formed and in good standing in the jurisdiction in which it was formed and the jurisdiction(s) in which it operates; (ii) has the authority to enter into the Allocation Agreement and undertake the activities that are specified therein; (iii) has no pending or threatened litigation that would materially affect its ability to enter into and carry out the activities specified in the Allocation Agreement; and (iv) is not in default of its articles of incorporation, bylaws or other organizational documents, or any agreements with the Federal government.

If an Allocatee identifies Subsidiary transferees, the CDFI Fund reserves the right to require an Allocatee to provide supporting documentation evidencing that it Controls such entities prior to entering into an Allocation Agreement with the Allocatee and its Subsidiary transferees. The CDFI Fund reserves the right, in its sole discretion, to rescind its allocation award if the Allocatee fails to return the Allocation Agreement, signed by the authorized representative of the Allocatee, and/or provide the CDFI Fund with any other requested documentation, within the deadlines set by the CDFI Fund.

6. *Fees:* The CDFI Fund reserves the right, in accordance with applicable Federal law and if authorized, to charge allocation reservation and/or compliance monitoring fees to all entities receiving NMTC Allocations. Prior to imposing any such fee, the CDFI Fund will publish additional information concerning the nature and amount of the fee.

7. *Reporting:* The CDFI Fund will collect information, on at least an annual basis, from all applicants that are awarded NMTC Allocations and/or are recipients of QLICIs, including such audited financial statements and opinions of counsel as the CDFI Fund deems necessary or desirable, in its sole discretion. The CDFI Fund will use such information to monitor each Allocatee's compliance with the provisions of its

Allocation Agreement and to assess the impact of the NMTC Program in Low-Income Communities. The CDFI Fund may also provide such information to the IRS in a manner consistent with IRC § 6103 so that the IRS may determine, among other things, whether the Allocatee has used substantially all of the proceeds of each QEI raised through its NMTC Allocation to make QLICIs. The Allocation Agreement shall further describe the Allocatee's reporting requirements.

The CDFI Fund reserves the right, in its sole discretion, to modify these reporting requirements if it determines it to be appropriate and necessary; however, such reporting requirements will be modified only after due notice to Allocatees.

VII. Agency Contacts

The CDFI Fund will provide programmatic and information technology support related to the allocation application between the hours of 9 a.m. and 5 p.m. ET through May 31, 2010. The CDFI Fund will not respond to phone calls or e-mails concerning the application that are received after 5 p.m. ET on May 31, 2010 until after the allocation application deadline of June 2, 2010. Applications and other information regarding the CDFI Fund and its programs may be obtained from the CDFI Fund's Web site at *http://www.cdfifund.gov.* The CDFI Fund will post on its Web site responses to questions of general applicability regarding the NMTC Program.

A. *Information technology support:* Technical support can be obtained by calling (202) 622–2455 or by e-mail at *ithelpdesk@cdfi.treas.gov.* People who have visual or mobility impairments that prevent them from accessing the Low-Income Community maps using the CDFI Fund's Web site should call (202) 622–2455 for assistance. These are not toll-free numbers.

B. *Programmatic support:* If you have any questions about the programmatic requirements of this NOAA, contact the CDFI Fund's NMTC Program Manager by e-mail at *cdfihelp@cdfi.treas.gov,* by telephone at (202) 622–6355, by facsimile at (202) 622–7754, or by mail at CDFI Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005. These are not toll-free numbers.

C. *Administrative support:* If you have any questions regarding the administrative requirements of this NOAA, contact the CDFI Fund's NMTC Program Manager by e-mail at *cdfihelp@cdfi.treas.gov,* by telephone at (202) 622–6355, by facsimile at (202) 622–2445, or by mail at CDFI Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005. These are not toll-free numbers.

D. *IRS support:* For questions regarding the tax aspects of the NMTC Program, contact Branch Five, Office of the Associate Chief Counsel (Passthroughs and Special Industries), IRS, by telephone at (202) 622–3040, by facsimile at (202) 622–4753, or by mail at 1111 Constitution Avenue, NW, Attn: CC:PSI:5, Washington, DC 20224. These are not toll-free numbers.

E. *Legal counsel support:* If you have any questions or matters that you believe require response by the CDFI Fund's Office of Legal Counsel, please refer to the document titled "How to Request a Legal Review," found on the CDFI Fund's Web site at *http://www.cdfifund.gov.*

VIII. Information Sessions

In connection with this NOAA, the CDFI Fund may conduct multiple information sessions around the country at locations to be announced, as well as an information session that will be produced in Washington, DC and broadcast over the Internet via Web casting. For further information on these upcoming information sessions, please visit the CDFI Fund's Web site at *http://www.cdfifund.gov* or call the CDFI Fund at (202) 927–6224.

Authority: 26 U.S.C. 45D; 31 U.S.C. 321; 26 CFR 1.45D–1.

Dated: April 1, 2010.

Donna J. Gambrell,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2010–8008 Filed 4–7–10; 8:45 am]

BILLING CODE 4810–70–P

UNITED STATES INSTITUTE OF PEACE

Notice of Meeting

AGENCY: United States Institute of Peace.

Date/Time: Thursday, April 29, 2010; 9:15 a.m.–3:15 p.m.

Location: 1200 17th Street, NW., Suite 200, Washington, DC 20036–3011.

Status: Open Session—Portions may be closed pursuant to Subsection (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

Agenda: April 29, 2010 Board Meeting; Approval of Minutes of the One Hundred Thirty-Sixth Meeting (January 14, 2010) of the Board of Directors; Chairman's Report; Presidents Report; Introduction of Peace Scholars; Discussion of Grants Process; Updates on SENSE, Sudan; Audit and Finance Committee Report; Vote on the National Peace Essay Contest winners; Other General Issues.

Contact: Tessie F. Higgs, Executive Office, Telephone: (202) 429–3836.

Dated: April 1, 2010.

Tara Sonenshine,

Executive Vice President, United States Institute of Peace.

[FR Doc. 2010–7726 Filed 4–7–10; 8:45 am]

BILLING CODE 6820–AR–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on the Readjustment of Veterans; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on the Readjustment of Veterans will be held on April 22–23, 2010, at the Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, Virginia. The sessions will begin at 8 a.m. each day and end at 4:30 p.m. on April 22 and at 4 p.m. on April 23. The meeting is open to the public.

The purpose of the Committee is to review the post-war readjustment needs of combat Veterans and to evaluate the availability and effectiveness of VA programs to meet these needs.

On April 22, the Committee will receive a review of the service needs of combat Veterans with Traumatic Brain Injury and VA's rehabilitation programs established to meet the needs of severely wounded Veterans and family members. The Committee will also be briefed on VA and Department of Defense (DoD) collaborative ventures, and DoD's Defense Centers of Excellence for Mental Health. The day's agenda will conclude with Veterans Health Administration (VHA) briefings on services to Veterans' family members and evidence-based practices for the treatment of war-related Post-Traumatic Stress Disorder.

On April 23, the Committee will receive a briefing on the current initiatives of the Readjustment Counseling Service Vet Center program to ensure timely access and the availability of quality readjustment services to assist the Veterans returning from Operation Enduring Freedom and Operation Iraqi Freedom. The Committee will receive additional briefings on services to women Veterans and VHA's Suicide Prevention program. The Committee will also finalize

drafting recommendations for the Committee's next annual report.

Time will not be allocated at this meeting for receiving oral presentations from the public. However, members of the public may direct written questions or submit prepared statements for review by the Committee in advance to Mr. Charles M. Flora, M.S.W., Designated Federal Officer, Readjustment Counseling Service, Department of Veterans Affairs (15), 810 Vermont Avenue, NW., Washington, DC 20420. Those who plan to attend or have questions concerning the meeting may contact Mr. Flora at (202) 461–6525 or by e-mail at *charles.flora@va.gov.*

Dated: April 2, 2010.

By Direction of the Secretary.

Vivian Drake,

Acting Committee Management Officer.

[FR Doc. 2010–7925 Filed 4–7–10; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Thursday,
April 8, 2010

Part II

Department of Defense

Defense Acquisition Regulations System

48 CFR Parts 204, 206, 223, et al.

Defense Federal Acquisition Regulation Supplements; Export-Controlled Items; Research and Development Contract Type Determination; Acquisitions in Support of Operations in Iraq or Afghanistan; Minimizing Use of Hexavalent Chromium; Final Rules and Proposed Rule

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 204, 235, and 252

RIN 0750–AF13

Defense Federal Acquisition Regulation Supplement; Export-Controlled Items (DFARS Case 2004–D010)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is adopting as final, with changes, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to address requirements for complying with export control laws and regulations when performing DoD contracts. The rule recognizes contractor responsibilities to comply with existing Department of Commerce and Department of State regulations and prescribes a contract clause to address those responsibilities.

DATES: *Effective Date:* April 8, 2010.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), 3060 Defense Pentagon, Room 3B855, Washington, DC 20301–3060. Telephone 703–602–0328; facsimile 703–602–0350. Please cite DFARS Case 2004–D010.

SUPPLEMENTARY INFORMATION:

A. Background

DoD published an interim rule at 73 FR 42274 on July 21, 2008, to address requirements for DoD contractors to comply with export control laws and regulations, particularly the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130) issued by the Department of State, and the Export Administration Regulations (EAR) (15 CFR parts 730–774) issued by the Department of Commerce. The rule implemented section 890(a) of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110–181) and also adopted recommendations resulting from proposed rules published at 70 FR 39976 on July 12, 2005, and 71 FR 46434 on August 14, 2006. This final rule does not address any export control regulations that may be imposed by the Department of Energy, the Nuclear Regulatory Commission, or the Department of the Treasury.

DoD received comments from 12 persons or organizations in response to the interim rule published on July 21, 2008. The following is a discussion of the comments and the changes included in this final rule as a result of those comments:

1. Need to Simplify

a. Single-Clause Construct

Comment: One respondent indicated that the interim rule used an unnecessarily complicated way to remind contractors of their responsibilities under existing export law. The respondent stated that the new clauses impose additional administrative requirements and recommended use of just one clause indicating that export-controlled items may be involved in the performance of the contract. This would eliminate the requirement for the contractor to notify the contracting officer under 252.204–7009(c).

DoD Response: The purpose of this rule is to ensure that contractors are aware of their responsibilities to comply with export control laws and regulations. As stated in DFARS 204.7303, it is in the interest of both the Government and the contractor to be aware of export controls as they apply to contract performance. The interim rule was designed to serve this common interest, to prompt appropriate research by Government requiring activities and communication between the parties to a potential contract, and to have the resulting contract include one of two clauses, so that each contract would reflect the parties' expectation that the contractor either would or would not need access to, or would or would not generate, export-controlled items in performance of the contract.

The final rule requires the use of a single clause in every solicitation and contract, and that clause is silent with regard to the parties' expectations. By not stating specifically whether or not the parties expect performance of the contract to involve export-controlled items, the clause clearly makes the point that the contractor is responsible for understanding and complying with all applicable laws and regulations regarding export-controlled items. That responsibility exists independent of, and is not established or limited by, any information provided in the DFARS clause.

The advantages of changing to a single-clause construct include—

(1) Raising awareness, by inclusion of the appropriate words in every DoD solicitation and contract, that contractors have a responsibility to comply with all applicable laws and regulations regarding export-controlled items;

(2) Eliminating any possible ambiguities that might complicate enforcement of export control laws and regulations by the Commerce, State, and Justice Departments, since there will be no statements in DoD contract clauses that indicate a DoD assessment regarding the applicability of export controls to performance of the contract;

(3) A much simpler DFARS requirement; and

(4) Elimination of the engagement or associated work that would have been required to implement the two-clause construct.

The possible disadvantages of changing to a single-clause construct include—

(1) Questionable effectiveness of the single clause in raising offeror and contractor awareness of export controls as they apply to the performance of any particular contract, since it will be a standard clause automatically included in all contracts; and

(2) Elimination of the requirement that requiring activities and contracting officers be aware, in each case, of the parties' expectations with regard to performance of a contract involving export-controlled items.

After serious consideration of the pros and cons, and after extensive internal U.S. Government consultation, DoD has determined that a single clause best serves the interests of the Government and industry.

b. Contractor Obligation

Comment: Several respondents stated that the clauses at 252.225–7008 and 252.225–7009 imposed a burden on the contractor to assess whether contracted research will generate export-controlled items. The respondent suggested an approach for DoD to guide its contractors toward compliant exporting under DoD contracts.

DoD Response: The suggested approach was based on the premise that it is the responsibility of DoD to guide its contractor as the contractor determines whether the results of research under its contracts are export-controlled. DoD disagrees with this premise. Export control laws and regulations already exist, and contractors are obliged to comply with them whether or not a DoD contract points out this fact to the contractor. The clause serves to remind offerors and contractors of their existing obligations.

2. Definition of "Export-Controlled Items"

a. Broadness of Definition

Comment: One respondent stated that, since "export-controlled items" are defined as items subject to the EAR or the ITAR, and since EAR controls are very broad, very few contracts should include the clause at 252.204–7009, because virtually all contracts would involve an "export-controlled item" subject to the EAR. The example given was that commercial encryption found in most software applications is controlled by the EAR. This would mean that if a contractor needs to use certain commercial software applications in performance of the contract, the clause at 252.204–7008 would be appropriate, because the contractor would need access to "export-controlled items." If the definition is intended to be this broad, there seems to be little purpose in having the two-clause construct.

DoD Response: DoD consulted with the Department of Commerce, which concluded that the EAR portion of the definition of "export-controlled items" is accurate and should remain broad to ensure that contractors are aware of all potential responsibilities under the EAR. For the reasons stated in the response to Comment 1a above, the two-clause construct has been eliminated.

b. Release to U.S. Persons in the United States

Comment: Several respondents were concerned that, as defined in the interim rule, "export-controlled items" excludes EAR-controlled commodities released to foreign persons in the United States, but does not exclude (and thus has the effect of including) EAR-controlled commodities released to U.S. persons in the United States.

Several respondents believed the intent of the rule to be that the clause at 252.204–7008 is not required when the contract will require access to Commerce Control List (CCL) commodities solely within the United States. However, as written, the unintended consequence is a requirement that the clause be included when U.S. persons need access to CCL commodities in the United States. The respondents suggested deleting the phrase "to foreign nationals" from the second sentence in 252.204–7008(a)(2) and 252.204–7009(a)(2) to achieve the intended result.

Another respondent pointed out that the interim rule required the clause at 252.204–7008 in contracts involving commodities that are subject to the EAR and that are used solely in the United States, which would not create an export issue under the EAR.

DoD Response: As a result of the decision to adopt a single, mandatory clause, the text related to the release of technology or software source code subject to the EAR to foreign nationals in the United States (or "deemed exports") has been removed from the rule. Since the single clause is silent with regard to whether the contract is or is not expected to involve export-controlled items, there is no need to include language on deemed exports. Contractors will have a responsibility to consult the EAR for all activities that may require authorization from the Department of Commerce, including the release of technology and source code subject to the EAR to foreign nationals.

c. Differentiation Between Equipment and Technical Information

Comment: One respondent recommended that DoD change the definition of "export-controlled items" so that it does not create confusion and allow the possibility of incorrect application of the clauses by including both controlled equipment and other tangible items, and controlled technical information, in the definition. The respondent's rationale was that export control regulations apply differently to these two categories. While export controls apply to the export abroad of both, export controls do not apply to the mere use or transfer of equipment or tangible items in the United States without providing defense services or related technical data.

DoD Response: The definition of "export-controlled items" has a scope that fits the scope of the DFARS rule. The rule applies to export-controlled items, including information and technology. This broadening of the rule's applicability beyond "export-controlled information and technology" was logical and also required by section 890(a) of Public Law 110–181. The applicable export controls may indeed operate differently for each of the two categories. However, this fact exists independent of the DFARS rule, and has no bearing on the DFARS definition of export-controlled items.

3. Relationship of the DFARS Rule to the EAR and the ITAR

a. DoD Should Identify Export-Controlled Items

Comment: One respondent recommended that the rule (1) require the contracting agency to identify, by specific provision in the applicable export control regulation, those export-controlled items to which contractors or subcontractors will have access, and (2) require the contracting officer to notify the contractor of those items prior to release. The comment appeared to be limited to a subset of export-controlled items, specifically those that would be furnished or released by the Government to the contractor.

DoD Response: The interim rule did not include a requirement for identifying in the contract clause any specific export-controlled items to be involved in contract performance. As stated in the preamble to the interim rule published on July 21, 2008, such a requirement was determined to be unacceptable to the agencies of the Federal Government (*i.e.,* Departments of State, Commerce, and Justice) responsible for enforcing export control laws and regulations (*i.e.,* the ITAR and the EAR). From their point of view, it is important that any contract clause be free of information that could possibly create ambiguity about the contractor's responsibility to comply with all applicable laws and regulations regarding export-controlled items, which exists independent of, and is not established or limited by, the information provided in the DFARS rule or the prescribed contract clauses. The final rule prescribes a single clause that has no such content. Additionally, authorization to release and for releasing export-controlled items is covered by export control laws and regulations and is, therefore, independent of, and beyond the scope of, this DFARS rule.

b. DoD Should Determine if Research Is Export Controlled

Comment: One respondent stated that it is DoD's responsibility to determine whether the results of research under its contracts are export-controlled and that, since DoD has a leading technical input to any commodity jurisdiction action, DoD should be comfortable with advising contractors as to whether DoD considers the results of research conducted under its contracts to be export-controlled, or with providing "DoD export direction."

Another respondent stated that increased security benefits will be reaped if DoD diligently identifies those portions of fundamental research projects that it believes may be export-controlled. Several other respondents stated that the Government needs to convey to the universities the information that certain work is export-controlled.

DoD Response: The DFARS clauses in the interim rule did not establish the export controls with which exporters are obliged to comply. The ITAR and

the EAR, not the DFARS clauses, impose the burden on exporters to know if the work they are doing, whether or not under a DoD contract, will involve export-controlled items. Exporters have strict liability to comply with the ITAR and the EAR. DoD's responsibilities under the DFARS rule in no way relieve DoD contractors of the responsibilities they have under the ITAR and the EAR. DoD does not have authority to issue "export direction" regarding contractor responsibilities to comply with the ITAR and the EAR.

c. Inappropriate Encouragement of the Use of Export Controls

Comment: One respondent stated that the DFARS rule would encourage unintentionally the use of export controls in cases where an exclusion would apply.

DoD Response: Export controls and exclusions are established by the ITAR and the EAR independent of DFARS requirements. In providing single-clause guidance to contracting officers and contractors with reference to the operative regulations, any potential for independent interpretation or encouragement should be eliminated.

d. Contractor Liability

Comment: One respondent stated that the rule is silent on contractor liability, making it unclear as to what approach contractors must take in the event of an unauthorized export when the submittal of a voluntary disclosure to the State Department's Directorate of Defense Trade Controls or the Commerce Department's Office of Export Enforcement would be appropriate. The ITAR and the EAR lay out well-defined steps for submitting voluntary disclosures. It is not clear whether the DFARS rule would require the contractor to make disclosures with the DoD contracting officer in addition to those made under the ITAR or the EAR. The rule should clearly state that any matters related to controlled data should be addressed in accordance with existing State Department or Commerce Department regulations.

DoD Response: The interim rule's statements at 204.7302, and 252.204–7008(c), (d), and (e), were intended to make clear that the ITAR and the EAR govern the control of exports and enforcement of export controls, and that questions about the ITAR go to the State Department and questions about the EAR go to the Commerce Department. After consultation with the Departments of State and Commerce, DoD concluded that a change might enhance the clarity of the rule in this regard, without mentioning any particular ITAR or EAR requirement (such as voluntary disclosure), since mentioning one requirement could create confusion about the many requirements left unmentioned. Therefore, paragraph (d) (formerly paragraph (e)) of the clause at 252.204–7008 has been amended to state that "nothing in the terms of this contract adds to, changes, supersedes, or waives any of the requirements of applicable Federal laws, Executive orders, and regulations * * *"

e. Process for Determining whether Export-Controlled Items are Involved

Comment: One respondent stated that the procedure prescribed by the rule can result in the Government issuing a solicitation that includes the clause at 252.204–7008, but provides no insight as to why the Government considered that clause appropriate. The rule should (1) give contractors the opportunity to consider whether the work can be performed without the contractor needing access to or generating export-controlled items, (2) provide explicitly for consultation with contractors, DoD contracting officers, and agencies responsible for the EAR and the ITAR in making a determination if export-controlled items are expected to be involved; and (3) provide for revisiting the determination after receipt of proposals but before award of the contract.

DoD Response: The single-clause construct of the final rule eliminates the concerns expressed by this comment.

4. Fundamental Research and the Clause at DFARS 252.204–7000, Disclosure of Information

Comments: The fundamental research aspect of the rule was a key focus of respondents. Ten of the twelve respondents represented a university or the university community. Two of the university respondents acknowledged that, on occasion, universities under contracts with DoD can and do have access to export-controlled items in fundamental research, noting that this is done in compliance with applicable export control laws and without publication restrictions on the results of their fundamental research. Comments associated with fundamental research had several common themes:

○ Concern that the DFARS definition of "fundamental research" (from National Security Decision Directive (NSDD) 189) is different than the definitions in the ITAR and the EAR. The distinction between "fundamental research" and "applied research" is dealt with adequately in the ITAR and the EAR and DoD should avoid adding complexity or confusion with this DFARS rule.

○ Belief that an exclusion for fundamental research exists with regard to export controls, *i.e.,* if a contract is for fundamental research and with a university, export controls cannot possibly apply. The EAR and the ITAR were cited to support this belief.

○ Focus on fundamental research rather than on the contract, to the extent that one respondent suggested identifying which export-controlled items are subject to the clause at 252.204–7008 and what part of the contract work is fundamental research subject to the clause at 252.204–7009.

○ Confusion regarding, concerns about, or arguments against the assertion in the DoD statement in the preamble to the interim rule published on July 21, 2008, that there is a borderline where fundamental research meets more advanced applied research and development.

○ Concern that contracting officers, in the event that export-controlled items are expected to be involved in the conduct of university research, may erroneously conclude that the results of university research must necessarily contain sensitive information or information not appropriate for public release, and may impose the clause at DFARS 252.204–7000, Disclosure of Information, or other access and dissemination restrictions on the contract. Application of publication restrictions on university research destroys the university's ability to conduct the research as fundamental research that is not subject to export control restrictions, and could lead to restrictions on the involvement of foreign researchers. Therefore, universities were concerned that the rule may restrict the conduct of fundamental research on university campuses.

○ Recommendations that the rule refer to the June 26, 2008, Under Secretary of Defense (Acquisition, Technology, and Logistics) memorandum on the subject of "Contracted Fundamental Research," and that the rule include the memorandum's guidance to DoD officials for contracting with universities for fundamental research.

○ The need to instruct requiring activities and contracting officers to manage fundamental research projects such that they do not become subject to export controls.

DoD Response: The two-clause construct has been eliminated in the final rule, which prescribes a single clause for use in all DoD solicitations and contracts. The single clause is silent

with regard to whether the contract is or is not expected to involve export-controlled items. There is no need in the revised context to mention any particular type or category of contracts, including research and development contracts. The clause puts all contractors, including universities performing contracts for fundamental research only, on notice that they are responsible for complying with all applicable export control laws and regulations.

DoD does not have the authority to establish in the DFARS a presumption that DoD contracts for fundamental research do not involve export-controlled items or that contractors performing DoD contracts for fundamental research may assume that the ITAR and the EAR do not apply to what they do or produce in the performance of the contract.

After considering the public comments associated with this aspect of the rule, DoD concluded that the rule would be improved by removing the references to fundamental research. The result is a simpler, clearer rule, with nothing that will distract the reader from the focus on the contractor's responsibility for complying with the ITAR and the EAR. Therefore, the final rule does not define or mention fundamental research. The clause is written to apply to all contracts, and there is no exception for contracts for fundamental research. The operation of the DFARS rule will be independent of, and have no bearing on, the applicability of NSDD 189, EAR, or ITAR definitions of "fundamental research" to a given contract. The interim rule did not, and the final rule does not, impose restrictions on the publication or dissemination of the results of research under research contracts.

5. Alternatives at 252.204–7009(c), Particularly the Alternative for Termination for Convenience of the Government

Paragraph (c) of the clause at 252.204–7009 in the interim rule required the contractor to notify the contracting officer if, during performance of the contract, the contractor became aware that it would generate or need access to export-controlled items. The contracting officer would then modify the contract to include the clause at DFARS 252.204–7008; negotiate a contract modification to eliminate the requirement for work involving export-controlled items; or terminate the contract, in whole or in part, for the convenience of the Government.

Comments: Many respondents were concerned with the alternative of terminating the contract for the convenience of the Government.

Several respondents suggested that contractors should also have the right to terminate for convenience of the contractor. Most of these respondents cite, for comparison purposes, FAR clause 52.204–2, Security Requirements, Alternate I, which, in paragraph (g), permits the contractor to request the contracting officer to terminate the contract in whole or in part in accordance with the terms of the Termination for the Convenience of the Government clause.

One respondent considered that the interim rule would unnecessarily encourage a contracting officer to potentially terminate a contract for convenience rather than modify the contract.

Another respondent was concerned, in general, that the unilateral nature of these provisions and the amount of discretion left to the contracting officer increase the ambiguity and uncertainty of the rule. The respondent requested that the final rule provide explicitly for consultation with contractors as to whether the research can be conducted without using export-controlled items.

DoD Response: The final rule removes the clause at 252.204–7009, including the language that was of concern to the respondents.

6. Flow-Down of Clauses to Subcontracts

a. Flow-Down of 252.204–7008

Comment: One respondent stated that, unless the term "foreign nationals" is deleted from paragraph (2) of the definition of "export-controlled items," contractors would be required to flow down the clause at DFARS 252.204–7008 to subcontracts in cases in which U.S. persons need access to EAR-controlled commodities, but not in which foreign persons need access to these items.

DoD Response: The statement regarding foreign nationals has been excluded from the definition of "export-controlled items."

b. Flowdown of 252.204–7000

Comment: One respondent stated that mandatory flow down of the clause at DFARS 252.204–7000, Disclosure of Information, from industry prime contractors to universities is perhaps the single largest impediment to efficient contracting between universities and their DoD-sponsored prime contractors.

DoD Response: The clause at DFARS 252.204–7000 is not prescribed by DFARS subpart 204.73. Therefore, changes to this clause or its prescription are outside the scope of this DFARS rule.

7. Training

Comment: One respondent stated that DoD should ensure export control compliance training for all DoD personnel involved in research and development acquisitions. Another respondent stated that extensive Government training would be needed for DoD requiring and contracting personnel, to permit selection of the appropriate contract clause as well as proper administration of the clause.

DoD Response: The final rule's prescription of a single clause for use in all solicitations and contracts eliminates the aspects of the interim rule that created the greatest need for additional training for requiring and contracting personnel. Nevertheless, DoD has a continuing interest in improving the training available on export control-related matters. Web-based training on this subject is available presently to DoD personnel through the Defense Acquisition University.

This rule was reviewed by the Office of Management and Budget under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because all contractors, including small entities, are already subject to export-control laws and regulations. The requirements of this rule reinforce existing responsibilities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2004–D010) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 204, 235, and 252

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

■ Accordingly, the interim rule amending 48 CFR parts 204, 235, and 252, which was published at 74 FR 42274, July 21, 2008, is adopted as a final rule with the following changes:

■ 1. The authority citation for 48 CFR parts 204, 235, and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR chapter 1.

PART 204—ADMINISTRATIVE MATTERS

■ 2. Subpart 204.73 is revised to read as follows:

Subpart 204.73—Export-Controlled Items

Sec.
204.7300 Scope of subpart.
204.7301 Definitions.
204.7302 General.
204.7303 Policy.
204.7304 Contract clauses.

Subpart 204.73—Export-Controlled Items

204.7300 Scope of subpart.

This subpart implements section 890(a) of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110–181).

204.7301 Definitions.

Export-controlled items, as used in this subpart, is defined in the clause at 252.204–7008.

204.7302 General.

Certain types of items are subject to export controls in accordance with the Arms Export Control Act (22 U.S.C. 2751, *et seq.*), the International Traffic in Arms Regulations (22 CFR parts 120–130), the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401, *et seq.*), and the Export Administration Regulations (15 CFR parts 730–774). *See PGI 204.7302* for additional information.

204.7303 Policy.

(a) It is in the interest of both the Government and the contractor to be aware of export controls as they apply to the performance of DoD contracts.

(b) It is the contractor's responsibility to comply with all applicable laws and regulations regarding export-controlled items. This responsibility exists independent of, and is not established or limited by, this subpart.

204.7304 Contract clauses.

Use the clause at 252.204–7008, Export-Controlled Items, in all solicitations and contracts.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Section 252.204–7008 is revised to read as follows:

252.204–7008 Export-Controlled Items.

As prescribed in 204.7304, use the following clause:

Export-Controlled Items (Apr 2010)

(a) *Definition.* Export-controlled items, as used in this clause, means items subject to the Export Administration Regulations (EAR) (15 CFR parts 730–774) or the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130). The term includes:

(1) *Defense items,* defined in the Arms Export Control Act, 22 U.S.C. 2778(j)(4)(A), as defense articles, defense services, and related technical data, and further defined in the ITAR, 22 CFR part 120.

(2) Items, defined in the EAR as "commodities, software, and technology," terms that are also defined in the EAR, 15 CFR 772.1.

(b) The Contractor shall comply with all applicable laws and regulations regarding export-controlled items, including, but not limited to, the requirement for Contractors to register with the Department of State in accordance with the ITAR. The Contractor shall consult with the Department of State regarding any questions relating to compliance with the ITAR and shall consult with the Department of Commerce regarding any questions relating to compliance with the EAR.

(c) The Contractor's responsibility to comply with all applicable laws and regulations regarding export-controlled items exists independent of, and is not established or limited by, the information provided by this clause.

(d) Nothing in the terms of this contract adds to, changes, supersedes, or waives any of the requirements of applicable Federal laws, Executive orders, and regulations, including but not limited to—

(1) The Export Administration Act of 1979, as amended (50 U.S.C. App. 2401, *et seq.*);

(2) The Arms Export Control Act (22 U.S.C. 2751, *et seq.*);

(3) The International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*);

(4) The Export Administration Regulations (15 CFR parts 730–774);

(5) The International Traffic in Arms Regulations (22 CFR parts 120–130); and

(6) Executive Order 13222, as extended.

(e) The Contractor shall include the substance of this clause, including this paragraph (e), in all subcontracts.

(End of clause)

Section 252.204–7009 [Removed and Reserved]

■ 4. Section 252.204–7009 is removed and reserved.

[FR Doc. 2010–7258 Filed 4–7–10; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 234 and 235

RIN 0750–AF79

Defense Federal Acquisition Regulation Supplement; Research and Development Contract Type Determination (DFARS Case 2006–D053)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is adopting as final, without change, an interim rule that requires the Milestone Decision Authority (MDA) for a major defense acquisition program (MDAP) to select the contract type for a development program that is consistent with the level of program risk in accordance with section 818 of the National Defense Authorization Act (NDAA) for Fiscal Year 2007.

DATES: *Effective Date:* April 8, 2010.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gomersall, 703–602–0302. Please cite DFARS case 2006–D053.

SUPPLEMENTARY INFORMATION:

A. Background

DoD published an interim rule at 73 FR 4117 on January 24, 2008, to implement section 818 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109–364). Section 818 requires DoD to modify regulations regarding the determination of contract type for development programs. Such regulations require the Milestone Decision Authority (MDA) for a major defense acquisition program (MDAP) to select the contract type for a development program that is consistent with the level of program risk. The MDA may select a fixed-price type contract, including a fixed-price incentive contract; or a cost-type contract, provided certain written determination requirements are satisfied.

The interim rule added a new section at DFARS 234.004 to implement the requirements of section 818 of Public Law 109–364, applicable to MDAPs, and

updated the policy at 235.006 to address requirements for other than MDAPs.

Two sources submitted comments on the interim rule. DoD's single response to both comments is provided following the comments.

1. *Comment:* One respondent suggested that the interim rule appears to be requiring written determinations on MDAPs and non-MDAPs that are exactly the opposite of one another. For MDAPS, 234.004(iii) requires a written determination by the MDA at the time of Milestone B approval if a fixed-price contract is not selected, and for non-MDAPs, 235.006(b)(i)(A)(3) requires a written determination if a fixed-price contract is selected for a developmental program. The respondent indicated that it is hard for him to understand the logic that would discourage the use of fixed-price development contracts for non-major programs, but would encourage their use for major programs. Moreover, he suggested that fixed-price development contracts are likely to be a source of numerous requests for equitable adjustments or claims, and concluded that instituting such a policy would be challenging and ill-timed even for a robust, experienced, and disciplined workforce.

2. *Comment:* The respondent stated that the interim rule appears to introduce additional burdens on DoD program managers and contracting personnel to justify the decision to issue a shipbuilding contract on a cost-type basis. The respondent believes that, when selecting a contract type for any program, DoD's focus should be on "whether a product, system, or item is still developing or has reached maturity." Further, although they are MDAPs, the respondent believes that the first several ships of a new class should be viewed as developmental products that are procured most efficiently through cost-type contracts because of the inherently high level of risk and uncertainty associated with them. Therefore, for the first several ships of a class, the burden placed upon the MDA should most often be to explain why a fixed-price contract type is selected rather than why a cost-type contract is selected. For this reason, the respondent believes that the interim rule is flawed since the requirements should be in reverse order when applied to shipbuilding contracts.

DoD Response: For MDAPs, the procedures in DFARS 234.004 are mandated by section 818 of the FY07 NDAA. For other than MDAPs, DoD determined that it would be in the best interest of the Government to retain the policy in DFARS 235.006 for a written determination if a fixed-price contract is selected for a development program. Therefore, DoD has made no change to the language set forth in the interim rule, and is adopting the interim rule as a final rule without change.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the rule relates to internal DoD considerations and documentation requirements relating to the selection of contract type for development programs. No comments were received in response to publication of the interim rule with respect to any impact on small entities.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 234 and 235

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR parts 234 and 235, which was published at 73 FR 4117 on January 24, 2008, is adopted as a final rule without change.

[FR Doc. 2010–7259 Filed 4–7–10; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 206, 225, and 252

RIN 0750–AG02

Defense Federal Acquisition Regulation Supplement; Acquisitions in Support of Operations in Iraq or Afghanistan (DFARS Case 2008–D002)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is adopting as final, with minor changes, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement sections 886 and 892 of the National Defense Authorization Act for Fiscal Year 2008. Section 886 provides authority for DoD to limit competition when acquiring products or services in support of operations in Iraq or Afghanistan. Section 892 addresses competition requirements for the procurement of small arms for assistance to Iraq or Afghanistan.

DATES: *Effective Date:* April 8, 2010.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, 703–602–0328.

SUPPLEMENTARY INFORMATION:

A. Background

DoD published an interim rule at 73 FR 53151 on September 15, 2008, to implement sections 886 and 892 of the National Defense Authorization Act for Fiscal Year 2008. The comment period closed on November 14, 2008. Four respondents provided comments. In consideration of the public comments received, several changes were made in developing the final rule.

The final rule:

- Clarifies applicability of the trade agreements (*see* response to comment 3.a.)
- Includes a modified definition of "service from Iraq or Afghanistan" in the prescribed clauses, so that it reads "a service (including construction) that is performed in Iraq or Afghanistan. * * *". (*See* the DoD response to comment 4.c.)
- Adds the Commander of the Joint Contracting Command—Iraq/Afghanistan as an official authorized to make a determination that applies to an individual acquisition with a value of $78.5 million or more, or to a class of acquisitions.

DoD received comments from four persons or organizations in response to the interim rule (available on the Web at regulations.gov). The comments are grouped into the following categories:

1. Concern for U.S. industrial base.
2. Concern for industrial base of Iraq and Afghanistan.
3. Applicability of trade agreements.
4. Definitions relating to sources, products, and services from Iraq or Afghanistan.
5. Clarification of contracting officer flexibility with regard to the evaluation factor.
6. Decision authority no higher than head of the contracting activity.
7. Justification for issuing an interim rule.

The following is a discussion of the comments and the changes included in this final rule as a result of the public comments:

1. Concern for the U.S. Industrial Base

a. Two respondents disagreed with the proposed DFARS statement in 225.7703–2(b)(1)(ii)(B) that the authorizing official may generally presume that there will not be an adverse effect on the U.S. industrial base as a result of using one of the procedures authorized by section 886. They advocated a change that would require that the effect on the U.S. industrial base should be considered in each contracting action, and should be presumed adverse unless otherwise documented.

Response: The industrial base supporting defense is a vehicle for achieving the ultimate objective of the Department of Defense—the development, production, and support of defense materiel necessary to provide for the nation's defense. Accordingly, DoD's overarching objective is to ensure it has access to reliable and cost-effective industrial capabilities sufficient to meet current and projected military requirements. When considering a contract's potential impact on the U.S. industrial and technological base, DoD focuses on ensuring that the contract does not result in the loss of industrial or technological capabilities essential for the nation's defense. It is extremely unlikely—because of both the relatively small size of such U.S.-funded procurements and the specific products/services associated with such U.S.-funded procurements—that any contracts issued for products or services to be used for the military forces, police, or other security personnel of Iraq or Afghanistan would result in the loss of industrial or technological capabilities essential for the nation's defense.

Additionally, utilization of non-U.S. sources for the products or services likely to be acquired for the military/security forces of Iraq and Afghanistan with U.S. funds will generally not impact the economic viability of individual elements of the U.S. national technology and industrial base because of the relatively small values of such acquisitions. To demonstrate, the first quarterly report to Congress in response to section 886 of the Fiscal Year 2008 NDAA reported 91 percent of actions (there were 22 total actions with 11 different contractors) using section 886 authority were for construction/repair or services. The two supply items were for billboards for a total of $73 million. DoD has a relatively small role in the overall U.S. economy. In 2008, the total of all DoD budget authority represented only about 4 percent of the gross domestic product. Especially in dual-use market segments, DoD's influence is very small. Additionally, DoD purchases non-U.S. materiel very judiciously; and the transactions contemplated here likely will be even smaller in value. For example—

- As reported to Congress in its September 2008 report "Foreign Sources of Supply," in Fiscal Year 2007, DoD awarded contracts to foreign suppliers for defense items and components totaling approximately $1.57 billion, less than one-half of one percent of all DoD contracts; and only about 1.5 percent of all DoD contracts for defense items and components. The remaining 99.5 percent of all DoD contracts and 98.5 percent of all DoD contracts for defense items and components were awarded to U.S. prime contractors.
- As reported to Congress in its July 2008 report "Department of Defense Fiscal Year 2007 Purchases of Supplies Manufactured Outside the United States," DoD procurement actions in Fiscal Year 2007 totaled approximately $316 billion. Of that amount, approximately $18.9 billion (5.9 percent) was expended on purchases from foreign entities. "Weapons" purchases totaled $106.13 million (0.57 percent) and "subsistence" purchases totaled $84.95 million (0.46 percent).

Finally, DoD notes that both respondents supply rations or other shelf-stable meals. Title 10 United States Code, section 2533a(d) *Exception for Certain Procurements* provides that requirements to buy food from U.S. suppliers are excepted for procurements outside the United States in support of combat operations. The Congress has recognized that even food for U.S. Service members need not be procured from U.S. sources when the procurements take place outside the United States and are in support of combat operations.

Therefore, an authorizing official's presumption of no adverse impact on the U.S. industrial base is an appropriate posture. In the event of uncertainty, DFARS 225.7703–2(b)(1)(ii)(B) would require that the authorizing official coordinate with the applicable subject matter expert. This is reasonable and would protect industrial and technological capabilities essential for U.S. defense in those rare cases where contemplated procurements could have a negative impact.

b. *Comment:* Two respondents believed that DoD should require evaluation of the impact on the U.S. industrial base for each acquisition, whether or not the products or services being acquired are to be used only by the military forces, police, or other security personnel of Iraq or Afghanistan.

Response: According to subsection (b)(1) of section 886, a determination that the products or services being acquired are to be used only by the military forces, police, or other security personnel of Iraq or Afghanistan is adequate to support use of the procedures authorized by subsection (a). The interim rule at DFARS 225.7703–2(a) implements the law appropriately by not requiring an assessment of the impact on the industrial base in such cases.

c. *Comment:* Two respondents requested that DoD define "U.S. industrial base" for the purpose of this DFARS rule narrowly enough for the impact analysis to be meaningful (*e.g.,* as all potential U.S. contractors and subcontractors of the same or similar end product).

Response: DoD does not consider it necessary for DFARS subpart 225.77 to define "U.S. industrial base", nor does DoD agree that the suggested definition would be appropriate. As indicated in the response to comment 1.a., when considering a contract's potential impact on the U.S. industrial and technological base, DoD focuses on ensuring that the contract does not result in the loss of industrial or technological capabilities essential for the nation's defense. For this purpose, the term "U.S. industrial base" is sufficiently clear without being defined. Also, for this purpose, "U.S. industrial base" has a broad meaning and not the narrow meaning suggested by the respondents. U.S.-funded procurements of products or services in support of military or stability operations in Iraq or Afghanistan are not likely to result in the loss of industrial or technological capabilities essential for the nation's defense.

d. *Comment:* Two respondents requested that DoD define "adversely affected" for the purpose of the industrial base evaluation required by this DFARS rule. According to these respondents, the definition should include loss of volume for prime contractors and their supplier networks and loss of key suppliers due to reduced volume of purchases.

Response: "Adversely affected," the terminology used in section 886, is sufficiently clear to enable the type of assessment required by section 886. The term does not need to be defined in DFARS subpart 225.77.

e. *Comment:* Two respondents recommended that DoD should not

allow performance requirements to be reduced to match the potential (local) bidders' capabilities.

Response: The interim rule does not regulate the development of performance requirements. Operational users and program managers are responsible for defining requirements, and contracting officers are responsible for awarding and managing contracts that will satisfy those requirements.

f. *Comment:* Two respondents stated that U.S. competitors should not be excluded from any contracting action, i.e., should be allowed to participate in every procurement conducted using a procedure authorized by section 886.

Response: If the DFARS were changed as suggested, it would not include two procedures specifically authorized by section 886, and, therefore, would deprive DoD contracting officers of the flexibility provided and intended by the law. Section 886(a) authorizes two procedures that, if used, preclude U.S. firms from competing: Competition limited to products or services that are from Iraq or Afghanistan (subsection (a)(1)), and a procedure other than a competitive procedure used to award to a particular source or sources from Iraq or Afghanistan (subsection (a)(2)). Conference Report 110–477 explains that the legislation's purpose is to provide a stable source of jobs and employment in Iraq and Afghanistan in cases where the preference will not have an adverse effect on U.S. military operations or the U.S. industrial base. The interim rule, as written, appropriately implements the law and facilitates achievement of the law's intended purpose.

g. *Comment:* One respondent recommended that DoD should not apply the 50 percent penalty in 225.7703–1(a) to offers of U.S. products. In the respondent's view, this aspect of the DFARS rule is not stated or inferred in section 886.

Response: Section 886 is specifically intended to provide a stable source of jobs and employment in Iraq and Afghanistan. To that end, it authorizes a preference for, and only for, products or services that are from Iraq or Afghanistan. The 50 percent mark-up applied to offers of products or services that are NOT from Iraq or Afghanistan is the mechanism that provides the intended preference by putting offers of products from other countries, including the U.S., at a competitive disadvantage. If the DFARS were changed so that the mark-up was never applied to offers of U.S. products, the preference intended for Iraqi and Afghani products would also be applied to U.S. products. That would not be consistent with section 886 and would negate significantly the intended boost to the Iraqi and Afghani industrial base.

2. Concern for the Industrial Base of Iraq and Afghanistan

a. *Comment:* Two respondents recommended changing the interim rule to compel local bidders to work toward creation of a supplier network within Iraq and Afghanistan in order to achieve the goal of section 886. The respondents stated that this could be done by—

(1) Requiring 100 percent of the product to be from Iraq or Afghanistan, without allowances to use non-Iraqi or non-Afghani components (*see* 252.225–7021(a)(14)(ii)); or

(2) Specifically prohibiting award of contracts to brokers, distributors, and middlemen such that contracts must be awarded to Iraqi/Afghani producers that are part of a true Iraqi or Afghani national industrial base.

Response: The interim rule encourages rather than compels achievement of the goal of section 886, consistent with the authorities provided by section 886. Regarding 2.a.(1), even the Buy American Act allows 50 percent of the value of components of a domestic end product to be of foreign origin. *See also* the response regarding substantial transformation at paragraph 3.b., below. Regarding 2.a.(2), the interim rule appropriately implements the section 886 focus on products and services from Iraq or Afghanistan rather than on the national affiliation of the entity receiving the contract award. The rule has its intended effect without prohibiting award to brokers, distributors, or middlemen. If a distributor from the U.S. or a third country offers and delivers a "product from Iraq or Afghanistan," as defined in section 886 and the interim rule, the procurement facilitates the development of the industrial base of Iraq or Afghanistan. On the other hand, if a distributor in Iraq or Afghanistan offered and delivered a product from other than Iraq or Afghanistan, the procurement would not strengthen the Iraqi or Afghani industrial base.

b. *Comment:* Two respondents recommended limiting the percentage of non-Iraqi/non-Afghani components or, alternatively, when evaluating competitive offers of products or services that are not products or services of Iraq or Afghanistan, increasing by 50 percent the prices of all non-Iraqi or non-Afghani raw materials, ingredients, components, and/or items that are part of the end product offered.

Response: Section 886 authorizes a procedure in which a preference is provided for "products or services" that are from Iraq or Afghanistan, and goes on to define those terms. The provision at 252.225–7023 and the clause at 252.225–7024 state that the contracting officer will increase by 50 percent the prices of offers of "products or services" that are not products or services from Iraq or Afghanistan. (The definition of "product from Iraq or Afghanistan" is identical to that in section 886, and the definition of "service from Iraq or Afghanistan" adds only the word "predominantly" to the definition from section 886.) The comment suggests that the preference be applied not only at the level of products, but also at the level of the raw materials, ingredients, components, and/or items that are part of the end product offered. DoD understands that this would create a greater competitive advantage for products with a higher proportion of Iraqi or Afghani content. However, it would also complicate significantly the rule and the submission and evaluation of offers and probably contribute to lengthening solicitation and evaluation periods. Therefore, DoD has not changed the final rule in response to this comment.

3. Applicability of Trade Agreements

a. *Comment:* One respondent suggested that the rule should emphasize that acquisitions under the authority of section 886 are exempt from application of the trade agreements.

Response:

i. Acquisitions with a preference for Iraqi or Afghani products. The Trade Agreements Act applies to those acquisitions in which only a preference for Iraqi or Afghani products is imposed, as authorized by 225.7703–1(a)(1). However, based on consultation with legal counsel prior to publishing the interim rule, DoD concluded that when using this new authority to provide a preference for Iraqi products, the Trade Agreements Act purchasing prohibition does not apply with regard to purchases of products or services from Iraq. Afghani end products are already acceptable in any covered procurement because Afghanistan is a "designated country," as that term is defined in FAR 25.003. Therefore, the interim rule provided an Alternate I to the Trade Agreements clause at FAR 52.225–7021, and a new certification to replace the FAR Trade Agreements Certification at 52.225–7020, unless the preference applies only to the products of Afghanistan.

ii. Acquisitions that are limited to products or services from Iraq or Afghanistan. FAR 25.401(a)(5) provides that the trade agreements do not apply to acquisitions not using full and open

competition, if authorized by subpart 6.2 or 6.3, when the limitation of competition would preclude use of the procedures of subpart 25.4. Although the procedures at 225.7703–1(a)(2) and (a)(3) are not authorized by subpart 6.2 or 6.3, section 886 has provided comparable separate statutory authorization, which precludes the use of the procedures of subpart 25.4, since such application would be inconsistent with implementation of section 886. This principle is implemented at 225.1101(6)(iii)(B), which prohibits use of any Trade Agreements provision or clause, if the clause at 252.225–7026, Acquisition Restricted to Products or Services from Iraq or Afghanistan, is included in the solicitation and contract. However, DoD has further clarified the application of trade agreements in the final rule (*see* 225.401–71 and 225.7703–5(f)).

b. *Comment:* Two respondents recommended that DoD should not allow the "substantial transformation" test in 252.225–7021(a)(14)(ii) to be applied to contracting actions made under the authority of this DFARS rule.

Response: According to 225.7703–5(d) of the interim rule, contracting officers are to use the appropriate provision and clause when the Trade Agreements Act applies to the acquisition. The "substantial transformation" test applies in procurements covered by the Trade Agreements Act. The objective of Alternate I to 252.225–7021 is to enable the purchase of Iraqi (or Afghani) end products in such procurements, not to change the rules, such as the "substantial transformation" test, that otherwise apply to such procurements.

4. Definitions Relating to Sources, Products, and Services From Iraq or Afghanistan

a. *Comment:* One respondent recommended that DoD define or clarify "located in Iraq or Afghanistan" as the term is used in the DFARS 225.7701 definition of "source from Iraq or Afghanistan."

Response: "Located in Iraq or Afghanistan" is self-explanatory and does not require definition or clarification.

b. *Comment:* One respondent requested that DoD add "predominantly" to the definition of "product from Iraq or Afghanistan."

Response: The DFARS definition of "product from Iraq or Afghanistan," taken directly from section 886, is "a product that is mined, produced, or manufactured in Iraq or Afghanistan." Without a modifier, the implication is that the end product is entirely mined, produced, or manufactured in Iraq or Afghanistan. A change to "predominantly mined, produced, or manufactured" would reduce the standard from the implied "entirely" to "predominantly." This would weaken rather than strengthen the effectiveness of the rule in facilitating development of the industrial base of Iraq and Afghanistan. This does not mean that all the components must be from Iraq or Afghanistan. Unlike the Buy American Act definition of "domestic end product," there is no component test in the statutory definition of "product from Iraq or Afghanistan." However, if the Trade Agreements Act applies, the item must be substantially transformed in Iraq or Afghanistan.

c. *Comment:* One respondent requested that DoD add "construction" as a stand-alone type of acquisition, since it does not appropriately fit in either the "products" or "services" category.

Response: The interim rule makes clear that construction is included in the meaning of "service." *See* DFARS 225.7703–1(a). However, while this is clear in the DFARS text, it is not stated in the clauses. Accordingly, the final rule includes a modified definition of "service from Iraq or Afghanistan" in the prescribed clauses, so that it reads "a service (including construction) that is performed in Iraq or Afghanistan. * * *". DoD cannot make "construction" a stand-alone category because the law provides these special authorizations only for the acquisition of products and services from Iraq or Afghanistan.

5. Clarify Contracting Officer Flexibility With Regard to the Evaluation Factor

Comment: One respondent requested clarification that contracting officers are allowed to determine the percentage evaluation factor to apply to non-local/national products and services and eliminate the 50 percent factor (225.7703–5; 252.225–7023).

Response: The interim rule at 225.7703–5(a)(2) clearly establishes that the contracting officer may modify the 50 percent evaluation factor in accordance with contracting office procedures. This approach is consistent with DFARS writing standards. The provision (252.225–7023) includes a default percentage, and the prescription (225.7703–5(a)) for using the provision enables the contracting officer to modify that percentage. Contracting offices are responsible for establishing procedures to be used for this purpose, and for ensuring contracting officers are aware of the discretion provided by the DFARS and how it can be applied.

6. Decision Authority No Higher Than Head of the Contracting Activity

Comment: One respondent requested that DoD add language to allow the head of the contracting agency, rather than acquisition executives, to make class determinations (225.7703–2).

Response: Although DoD is unwilling to provide this authority to all heads of contracting activities, the draft final rule adds the Commander of the Joint Contracting Command—Iraq/Afghanistan to the list of officials at 225.7703–2(b)(2)(ii) who are authorized, without power of redelegation, to make a determination in accordance with section 886 that applies to an individual acquisition of $78.5 million or more or to a class determination.

Decision To Issue an Interim Rule

Comment: One respondent requested explanation of the "urgent and compelling" reasons that supported DoD's determination to publish an interim rule rather than a proposed rule.

Response: First, this is a statutory requirement which became effective upon enactment. Further, there was and is an urgent and compelling need to achieve stability in Iraq and Afghanistan. Section 886 authorized the use of procurement procedures that could help provide a stable source of jobs and employment in those countries and as such, the Joint Contracting Command—Iraq/Afghanistan specifically requested immediate guidance on how to implement this section. DoD had an urgent and compelling need to implement section 886 in a way that would enable contracting officers to use the new procedures as soon as possible, and thus facilitate the creation of stable jobs and employment sooner rather than later.

B. Other Changes in the Final Rule

In addition to the written responses posted on regulations.gov, DoD was informed by a telephone caller that Alternate I to DFARS clause 252.225–7021, Trade Agreements, added in the interim rule, was erroneously not added to the listing of that same clause in the commercial items clause at DFARS 252.212–7001, Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items. DoD has corrected this oversight in the final rule.

This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993.

C. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the rule does not impose any requirements on small businesses and only impacts acquisitions in Iraq and Afghanistan. There were no comments received on regulatory flexibility in response to the interim rule.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 206, 225, and 252

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

■ Accordingly, the interim rule amending 48 CFR parts 206, 225, and 252, which was published at 73 FR 53151, September 15, 2008, is adopted as a final rule with the following changes:

■ 1. The authority citation for 48 CFR parts 225 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR chapter 1.

PART 225—FOREIGN ACQUISITION

■ 2. Section 225.401–71 is revised to read as follows:

225.401–71 Products or services in support of operations in Iraq or Afghanistan.

When acquiring products or services, other than small arms, in support of operations in Iraq or Afghanistan—

(a) If using the procedure specified in 225.7703–1(a)(1), the purchase restriction at FAR 25.403(c) does not apply with regard to products or services from Iraq.

(b) If using a procedure specified in 225.7703–1(a)(2) or (3), the procedures of subpart 25.4 are not applicable.

■ 3. Section 225.7701 is amended by revising the definition of "service from Iraq or Afghanistan" to read as follows:

225.7701 Definitions.

* * * * *

Service from Iraq or Afghanistan means a service (including construction) that is performed in Iraq or Afghanistan predominantly by citizens or permanent resident aliens of Iraq or Afghanistan.

* * * * *

■ 4. Section 225.7703–2 is amended by revising paragraph (b)(2)(ii) introductory text and adding new paragraph (b)(2)(ii)(E) to read as follows:

225.7703–2 Determination requirements.

* * * * *

(b) * * *

(2) * * *

(ii) The Director, Defense Procurement and Acquisition Policy, and the following officials, without power of redelegation, are authorized to make a determination that applies to an individual acquisition with a value of $78.5 million or more or to a class of acquisitions:

* * * * *

(E) Commander of the Joint Contracting Command—Iraq/Afghanistan (JCC–I/A).

* * * * *

■ 5. Section 225.7703–4 is amended by revising the introductory text to read as follows:

225.7703–4 Reporting requirement.

The following organizations shall submit periodic reports to the Deputy Director, Contingency Contracting & Acquisition Policy, Defense Procurement and Acquisition Policy, in accordance with PGI 225.7703–4, to address the organization's use of the procedures authorized by this section:

* * * * *

■ 6. Section 225.7703–5 is amended by revising paragraph (d); removing paragraph (e)(4); redesignating existing paragraphs (e)(5) through (e)(8) as paragraphs (e)(4) through (e)(7), respectively; and adding paragraph (f) to read as follows:

225.7703–5 Solicitation provisions and contract clauses.

* * * * *

(d) When the Trade Agreements Act applies to the acquisition, use the appropriate clause and provision as prescribed at 225.1101 (5), (6), or (7).

(f) Do not use the following clause or provision in solicitations or contracts that include the clause at 252.225–7026:

(1) 252.225–7020, Trade Agreements Certificate.

(2) 252.225–7021, Trade Agreements.

(3) 252.225–7022, Trade Agreements Certificate—Inclusion of Iraqi End Products.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 8. Section 252.212–7001 is amended by revising the clause date and revising paragraph (b)(11) to read as follows:

252.212–7001 Contract terms and conditions required to implement statutes or Executive orders applicable to Defense acquisitions of commercial items.

* * * * *

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (APR 2010)

* * * * *

(b) * * *

(11)(i)____ 252.225–7021, Trade Agreements (NOV 2009) (19 U.S.C. 2501–2518 and 19 U.S.C. 3301 note).

(ii) Alternate I (SEP 2008).

* * * * *

■ 9. Section 252.225–7023 is amended by revising the clause date and revising paragraph (b)(2) to read as follows:

252.225–7023 Preference for products or services from Iraq or Afghanistan.

* * * * *

PREFERENCE FOR PRODUCTS OR SERVICES FROM IRAQ OR AFGHANISTAN (APR 2010)

* * * * *

(b) * * *

(2) Paragraph (c)(2) of the provision entitled Trade Agreements Certificate," or "Trade Agreements Certificate—Inclusion of Iraqi End Products," if included in this solicitation.

* * * * *

■ 10. Section 252.225–7024 is amended by revising the clause date and revising paragraph (a)(2) to read as follows:

252.225–7024 Requirement for products or services from Iraq or Afghanistan.

* * * * *

REQUIREMENT FOR PRODUCTS OR SERVICES FROM IRAQ OR AFGHANISTAN (APR 2010)

(a) * * *

(2) *Service from Iraq or Afghanistan* means a service (including construction) that is performed in Iraq or Afghanistan predominantly by citizens or permanent resident aliens of Iraq or Afghanistan.

* * * * *

■ 11. Section 252.225–7026 is amended by revising the clause date and revising paragraph (a)(2) to read as follows:

252.225–7026 Acquisition restricted to products or services from Iraq or Afghanistan.

* * * * *

ACQUISITION RESTRICTED TO PRODUCTS OR SERVICES FROM IRAQ OR AFGHANISTAN (APR 2010)

(a) * * *

(2) *Service from Iraq or Afghanistan* means a service (including construction) that is performed in Iraq or Afghanistan predominantly by citizens or permanent resident aliens of Iraq or Afghanistan.

* * * * *

[FR Doc. 2010–7261 Filed 4–7–10; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 223 and 252

RIN 0750–AG35

Defense Federal Acquisition Regulation Supplement; Minimizing Use of Hexavalent Chromium (DFARS Case 2009–D004)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to address requirements for minimizing the use of hexavalent chromium in defense weapon systems, subsystems, components, and other items. The proposed rule prohibits the delivery of items containing hexavalent chromium under DoD contracts unless an exception applies.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before June 7, 2010, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2009–D004, using any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

E-mail: dfars@osd.mil. Include DFARS Case 2009–D004 in the subject line of the message.

Fax: 703–602–7887.

Mail: Defense Acquisition Regulations System, Attn: Ms. Cassandra Freeman, OUSD (AT&L) DPAP (DARS), 3060 Defense Pentagon, Room 3B855, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Cassandra Freeman, 703–602–8383.

SUPPLEMENTARY INFORMATION:

A. Background

Hexavalent chromium is a significant chemical in numerous DoD weapon systems and platforms due to its corrosion protection properties. On April 8, 2009, the Under Secretary of Defense (Acquisition, Technology and Logistics) issued a memorandum establishing policy for the minimization of hexavalent chromium use throughout DoD (*https://www.denix.osd.mil/portal/page/portal/denix/environment/MERIT*).

This proposed rule adds a new DFARS subpart and a corresponding contract clause to address requirements for minimizing the use of hexavalent chromium in defense items.

This rule was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the proposed rule is consistent with national and international restrictions and controls on the use of hexavalent chromium. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2009–D004) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the proposed rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 223 and 252

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

Therefore, DoD proposes to amend 48 CFR parts 223 and 252 as follows:

1. The authority citation for 48 CFR parts 223 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR chapter 1.

PART 223—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

2. Add subpart 223.73 to read as follows:

Subpart 223.73—Minimizing the Use of Hexavalent Chromium

Sec.
223.7301 Policy.
223.7302 Prohibition.
223.7303 Exceptions.
223.7304 Contract clause.

223.7301 Policy.

It is DoD policy to minimize the use of hexavalent chromium (an anti-corrosive) due to the serious human health and environmental risks related to its use.

223.7302 Prohibition.

Except as provided in section 223.7303, no DoD contract may include a specification or standard that results in a deliverable containing hexavalent chromium or the use of hexavalent chromium in contract performance. This prohibition is in addition to any imposed by the Clean Air Act regardless of the place of performance.

223.7303 Exceptions.

The prohibition in 223.7302 does not apply—

(a) If the use of hexavalent chromium is specifically authorized at a level no lower than a general or flag officer or a member of the Senior Executive Service from the Program Executive Office or equivalent level, in coordination with the component Corrosion Control and Prevention Executive. Forward any request for approval to allow the delivery or use of products or materials containing hexavalent chromium to the cognizant technical representative for evaluation and, if necessary, authorization by the appropriate official.

(b) To legacy systems and their related parts, subsystems, and components that already contain hexavalent chromium. However, alternatives to hexavalent chromium shall be considered during system modifications, follow-on procurements of legacy systems, or maintenance procedure updates.

223.7304 Contract clause.

Unless an exception has been authorized in accordance with 223.7303, use the clause at 252.223–7XXX, Prohibition on Use of Hexavalent Chromium, in solicitations and contracts for supplies, maintenance and repair services, or construction.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Add section 252.223–7XXX to read as follows:

252.223–7XXX, Prohibition on use of hexavalent chromium.

As prescribed in 223.7304, use the following clause:

PROHIBITION ON USE OF HEXAVALENT CHROMIUM (DATE)

(a) *Definitions.* As used in this clause—

Homogeneous material means a material that cannot be mechanically disjointed into different materials and is of uniform composition throughout.

Mechanically disjointed means that the materials can be, in principle, separated by mechanical actions such as unscrewing, cutting, crushing, grinding, and abrasive processes.

(b) *Prohibition.* Unless otherwise specified by the Contracting Officer, the Contractor shall not provide any deliverables under this contract, or use materials in performance of this contract, that contain hexavalent chromium in a concentration greater than 0.1 percent by weight in any homogeneous material.

(c) *Liability.* The Contractor is financially liable for any damages resulting from use or delivery of any materials that contain unapproved hexavalent chromium.

(d) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts for supplies, maintenance and repair services, or construction materials.

(End of clause)

[FR Doc. 2010–7262 Filed 4–7–10; 8:45 am]

BILLING CODE 5001–08–P

Federal Register

Thursday,
April 8, 2010

Part III

The President

Memorandum of April 6, 2010—Combating Noncompliance With Recovery Act Reporting Requirements

Federal Register
Vol. 75, No. 67
Thursday, April 8, 2010

Presidential Documents

Title 3—

The President

Memorandum of April 6, 2010

Combating Noncompliance With Recovery Act Reporting Requirements

Memorandum for the Heads of Executive Departments and Agencies

My Administration is committed to transparency in tracking recovery dollars and to elimination of waste, fraud, and abuse by recipients of hard-earned taxpayer dollars. Executive departments and agencies (agencies) should use every means available to: (1) identify every prime recipient under an obligation to file a report on FederalReporting.gov arising from its receipt of American Reinvestment and Recovery Act of 2009 (Recovery Act) funds; and (2) to ensure that every such recipient has filed a report. Any prime recipient that has failed to report is not living up to the standards set by my Administration and must be held accountable by all agencies to the fullest extent permitted by law. Our efforts to ensure timely, comprehensive, and accurate recipient reporting must succeed if we are to effectively meet the transparency and accountability objectives of the Recovery Act.

Therefore, I hereby direct agencies to further intensify their efforts to improve reporting compliance by prime recipients of Recovery Act funds, wherever authorized and appropriate, by terminating awards; pursuing measures such as suspension and debarment; reclaiming funds; and considering, initiating, and implementing punitive actions. In addition, agencies shall intensify efforts to timely report the identities of noncompliant prime recipients to the Office of Management and Budget (OMB) and specify to the OMB the detailed actions they have taken to respond to each instance of noncompliance. The Director of the OMB shall, within 30 days of the date of this memorandum, review current OMB guidance concerning agency responsibilities for addressing noncompliance with Recovery Act reporting requirements and, where appropriate, update that guidance with actions agencies should take to carry out the requirements of this memorandum. The guidance may include additional agency actions and strategies designed to improve prime recipient reporting compliance and the potential recapture of funds from noncompliant prime recipients.

Nothing in this memorandum shall be construed to require the disclosure of classified information, law enforcement sensitive information, or other information that must be protected in the interests of national security or is otherwise protected from disclosure by law.

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

The Director of the OMB is hereby authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
Washington, April 6, 2010

[FR Doc. 2010–8226
Filed 4–7–10; 11:15 am]
Billing code 3110–01–P

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Federal Register

Vol. 75, No. 67

Thursday, April 8, 2010

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FEDERAL REGISTER PAGES AND DATE, APRIL

16325–16640 1
16641–17024 2
17025–17280 5
17281–17554 6
17555–17846 7
17847–18046 8

CFR PARTS AFFECTED DURING APRIL

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.

3 CFR

Proclamations:
8487 17025
8488 17837
8489 17839
8490 17841
8491 17843
8492 17845
8493 17847

Administrative Orders:
Memorandums:
Memorandum of April 6, 2010 18045

5 CFR

Proposed Rules:
532 17316

7 CFR

1 17555
3 17555
91 17281
205 17555
226 16325
319 17289
735 17555
800 17555
900 17555
916 17027
917 17027
925 17031
944 17031
948 17034
1170 17555
1435 17555

Proposed Rules:
916 17072
917 17072

9 CFR

206 16641

10 CFR

140 16645
431 17036

Proposed Rules:
51 16360
430 ..... 16958, 17075
431 ..... 17078, 17079, 17080

12 CFR

4 17849
205 16580
918 17037
1261 17037

Proposed Rules:
701 17083
708a 17083
708b 17083
1203 17622
1705 17622

14 CFR

27 17041
29 17041
39 ..... 16646, 16648, 16651, 16655, 16657, 16660, 16662, 16664, 17295
67 17047
71 ..... 16329, 16330, 16331, 16333, 16335, 16336, 17851, 17852
73 17561
91 17041
121 17041
125 17041
135 17041
234 17050

Proposed Rules:
23 16676
25 16676
27 16676
29 16676
39 ..... 16361, 16683, 16685, 16689, 16696, 17084, 17086, 17630, 17632, 17879, 17882, 17884, 17887, 17889
71 ..... 17322, 17637, 17891, 17892

15 CFR

740 17052
748 17052
750 17052
762 17052
922 17055

16 CFR

Proposed Rules:
312 17089

17 CFR

190 17297
232 17853

18 CFR

40 16914
284 16337

20 CFR

618 16988

21 CFR

Ch. I 16353
10 16345
524 16346
814 16347
1002 16351
1003 16351
1004 16351
1005 16351
1010 16351
1020 16351
1030 16351

1040 16351
1050 16351
Proposed Rules:
165 16363
814 16365
882 17093
890 17093

24 CFR
570 17303

26 CFR
1 17854
301 17854
602 17854

27 CFR
17 16666
19 16666
20 16666
22 16666
24 16666
25 16666
26 16666
27 16666
28 16666
31 16666
40 16666
44 16666
46 16666
70 16666

28 CFR
Proposed Rules:
540 17324

30 CFR
18 17512
74 17512
75 17512

32 CFR
2004 17305
Proposed Rules:
1701 16698

33 CFR
117 17561
167 17562
Proposed Rules:
100 ....16700, 17099, 17103
150 16370
165 ....16370, 16374, 16703, 17106, 17329

34 CFR
Ch. II 16668

36 CFR
Proposed Rules:
1206 17638

37 CFR
Proposed Rules:
380 16377

38 CFR
1 17857
59 17859
Proposed Rules:
17 17641
51 17644
59 17641

39 CFR
111 17861

40 CFR
9 16670
50 17004
51 ....17004, 17254
52 ....16671, 17307, 17863, 17865, 17868
70 17004
71 17004
93 17254
180 ....17564, 17566, 17571, 17573, 17579
721 16670
272 17309
Proposed Rules:
52 ....16387, 16388, 16706, 17894
98 17331
272 17332
372 17333
721 16706
761 17645

45 CFR
286 17313

47 CFR
36 17872
54 ....17584, 17872
73 17874
74 17055
78 17055
Proposed Rules:
27 17349
36 17109

48 CFR
204 18030
206 18035
225 18035
234 18034
235 ....18030, 18034
252 ....18030, 18035
Proposed Rules:
223 18041
252 18041

49 CFR
23 16357
350 17208
385 17208
395 17208
396 17208
571 ....17590, 17604, 17605
Proposed Rules:
172 17111
173 17111
176 17111
383 16391
384 16391
390 16391
391 16391
392 16391
1244 16712

50 CFR
17 ....17062, 17466
36 16636
648 17618
665 17070
679 ....16359, 17315
Proposed Rules:
17 ....16404, 17352, 17363, 17667
223 16713
224 16713
648 16716

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

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H.R. 4872/P.L. 111–152
Health Care and Education Reconciliation Act of 2010 (Mar. 30, 2010; 124 Stat. 1029)

H.R. 4957/P.L. 111–153
Federal Aviation Administration Extension Act of 2010 (Mar. 31, 2010; 124 Stat. 1084)

S. 1147/P.L. 111–154
Prevent All Cigarette Trafficking Act of 2009 (Mar. 31, 2010; 124 Stat. 1087)

Last List March 31, 2010

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